

The Impact of Language on US Abortion Legislation

A Major Qualifying Project
submitted to the Faculty of
Worcester Polytechnic Institute
in partial fulfillment of the requirements for the
Degree of Bachelor of Science

By Catherine Stevens Pittelli

Submitted March 13th, 2023

Report Submitted to:

Professor Crystal Brown
Worcester Polytechnic Institute

Professor Rebecca Moody
Worcester Polytechnic Institute

This report represents work of one or more WPI undergraduate students submitted to the faculty as evidence of completion of a degree requirement. WPI routinely publishes these reports on the web without editorial or peer review.

Abstract

The overturning of the landmark Supreme Court case, *Roe v. Wade* (1973) in the summer of 2022 eliminated the nearly fifty-year constitutional right to an abortion, allowing for countless, new abortion restrictions. In this paper, I seek to determine how the overturning of *Roe* impacted the language drafters use in federally-proposed, anti-abortion legislation. This study provides an overview of the gender and power constructions that shape the contemporary abortion debate and on feminist legal theory. By using this theoretical framework in conjunction with an understanding of those constructions, I analyze the language and impacts of five bills proposed since the decision. Ultimately, the study revealed that post-*Roe* legislation maintains many of the goals and strategies of *Roe*-era restrictions and reinforces the system of paternalism and the conflation of womanhood and motherhood that persists throughout American history. While not signifying a substantial rhetorical shift, this continuation of language is impactful as it provides a framework for the future of abortion restrictions.

Acknowledgments

First, I would like to thank all of those who have dedicated themselves to the right to bodily autonomy. Without the dedication of countless activists and politicians before me, this paper would not be possible.

Thank you to my advisors, Dr. Crystal Brown and Dr. Rebecca Moody, for the never-ending support on the development of this paper, as well as the countless other professors, teachers, and mentors that have guided me in developing my writing and analytical skills and pushed me to consider and understand my own beliefs.

I would also like to thank my friends and roommates who supported me during countless late-night review sessions and emotional-support sushi dinners.

Finally, I would like to thank my parents for a lifetime of support, prioritization of my education, and sacrificing a Saturday morning to proofread this paper.

Table of Contents

<i>Abstract</i>	2
<i>Acknowledgments</i>	3
<i>List of Tables</i>	6
<i>Executive Summary</i>	7
<i>Introduction</i>	10
A Note on Language: Women or People?	13
<i>Literature Review</i>	16
Introduction.....	16
History of Women as Property	17
The “Woman-Centered” Anti-Abortion Movement	19
Abortion Restrictions.....	21
Abortion Bans.....	23
Conflation of Womanhood and Motherhood.....	25
Legislation.....	29
Feminist Legal Theory.....	31
<i>Methodology</i>	35
Introduction.....	35
Bill Selection.....	35
Question Development.....	37
Reflection on Selected Legislation	39
<i>Analysis</i>	40
Intro.....	40
Late-Term Abortions Act	40
Preventing Abortion Sanctuaries Act	41
Standing with Moms Act.....	42
Providing for Life Act	42
Pharmacist Conscience Protection Act.....	43
Bill Analysis by Theme	44
Focus of Control	44
Framing of Pregnant Person	48
Justification.....	51
Treatment of Evidence.....	58

Gendered Language of Dichotomies	59
Presentation of Social Constructs as Objective Truths.....	61
Impacts.....	62
The Viability Argument and Control.....	65
Gendered Language	66
States	67
<i>Conclusion</i>	70
<i>Appendices</i>	72
Appendix A – Bill Analysis Questions and Themes	72
Appendix B – List of Court Cases and Bills Cited.....	75
Appendix C – Analysis Notes.....	76
<i>References</i>	92

List of Tables

Table 1: Bill Analysis Questions	38
Table 2: Bills' Focus of Control	45
Table 3: Bills' Framing of Pregnant Person	49
Table 4: Bills' Justification.....	52
Table 5: Bills' Treatment of Evidence.....	58
Table 6: Bills' Dichotomies	59

Executive Summary

The overturning of *Roe v. Wade* (1973) in 2022 eliminated the constitutionally protected right to an abortion, dramatically broadening the ways Congress can regulate abortion. The purpose of this study is to consider: how the overturning of *Roe* impacted the language of proposed abortion restrictions. Analyzing this language in federally proposed bills creates an understanding of the new, post-*Roe* era of abortion politics and suggests the paternalistic, provider-focused path that the fight over abortion will take in future Congresses.

I use feminist legal theory to perform a rhetorical analysis focusing on gender and power. Feminist legal theory provides the broader concepts that I consider, including the gendered language of dichotomies, gender essentialism, and consciousness raising. I incorporate post-structuralism and Foucauldian ideas in considering the presentation of socially constructed beliefs as truth, the presentation of the Law as neutral and unbiased discourse, and paternalism: the practice of an authority restricting a people's freedoms and responsibilities in their supposed best interest.

My research methods consist of bill selection and analysis. I selected five bills proposed in the U.S. Congress after the Court overturned *Roe*. I selected these bills because the drafters crafted them to directly impose new restrictions on abortion in the United States. In analyzing the bills, I used methods adapted from feminist legal theory such as consciousness raising, organizing the apprehension of truth, and consideration of gendered language and social constructs. These methods work to fully illustrate the consequences, implications, and underlying purpose of legislation in regard to gender and power.

I found that rather than using inclusive language to accurately govern those having abortions, the drafters of the analyzed bills deliberately reinforce gender binaries. They refer to “women” with no consideration of other pregnant people (such as transgender) or women who cannot get pregnant. They use paternalistic language to suggest that women are naïve and easily coerced. Women are framed in the bills as needing to be protected from the abortion industry. Therefore, it is the state’s duty to restrict and punish providers to prevent women from making decisions contradictory to their nature. Just as the bills refuse to consider transgender people, they also refuse to consider pregnant people who do not want to be mothers, conflating womanhood and motherhood. According to the drafters, choosing to terminate a pregnancy is incompatible with a woman’s innate, nurturing, selfless, maternal instincts. In refusing to consider women with no desire for children, the bills argue that choosing to not be a mother is antithetical to womanhood.

This research is significant in considering the success and intentionality of future anti-abortion legislation. As legislators proposed these bills in response to the court decision, they provide an example of potential legislation for future Congresses and the paternalistic ways the government may use the language of protection to restrict abortion going forward. These restrictions vary greatly, including by obstructing abortion providers, preventing information dissemination, and “protecting” anti-abortion individuals. For many, abortion is a necessary healthcare procedure for preserving health and preventing poverty. I argue that abortion restrictions degrade bodily autonomy, and, to have an equal and inclusive society, people need the right to control their own bodies. Ultimately, the analysis revealed that post-*Roe* legislation maintains many of the goals and strategies of *Roe*-era restrictions and uses language to reinforce the system of paternalism and the conflation of womanhood and motherhood that persists

throughout United States' history. While not signifying a substantial rhetorical shift, this continuation of language is impactful as it provides a framework for the future of abortion restrictions.

Introduction

Roe v. Wade (1973) was the landmark Supreme Court decision that declared a Constitutional right to abortion. The decision held for nearly half a century, having been challenged and reaffirmed several times over almost 50 years. In 2021, the Supreme Court began hearing arguments in *Dobbs v. Jackson Women's Health Organization*, over the legality of Mississippi's abortion ban after 15 weeks of pregnancy. In 2022, the Supreme Court ruled in favor of the ban, overruled the *Roe* decision, and eliminated the Constitutional right to abortion.

I was studying abroad in Rabat, Morocco when Politico leaked the draft of the *Dobbs* decision in 2022. It was nearing the end of our term and we were rushing to finish up our papers while feeling disconnected from the news back home. After two months of learning developments about the Ukraine invasion and school shootings from Instagram, this was just another piece of news we were distanced from. Grief hit, but there was still a sense of denial. The decision was not made yet, and maybe something would change before it was. I returned to the United States hopeful and eager to get closer to the story, once I began my summer internship on Capitol Hill.

I learned of the decision announcement from my office's Deputy Chief of Staff while working as an intern in the U.S. Senate. She told us the news and sent everyone home early in case protests around Capitol Hill became violent. Instead, we walked to the Supreme Court to join the protests. That day, I decided to focus the culmination of my college degree, my undergraduate thesis, on the legislation that followed this decision.

As a white, upper-middle-class New Englander, I come to the abortion conversation with a substantial amount of privilege. I have pro-choice parents who helped me get an IUD at age 16.

I live in a state with anti-authoritarian, pro-choice laws and politicians. There are clinics near me that provide abortions; I drive past Planned Parenthood on my way to my go-to pizza place. I have high-quality health insurance and pro-choice doctors. I have never had doctors ignore my pain or disregard my decisions, as happens to many people of color (POC).¹ If I ever need an abortion, I have a substantial support network to help me. If my state ever bans the procedure, there are six states, all fairly-to-very pro-choice, within a 90-minute drive from me. Decades of feminist and pro-abortion activism have worked to preserve the bodily autonomy of educated, bourgeois white women like me.

I am aware, however, of the impermanence of my economic and regional privilege. I might not always have access to familial wealth or live in a place with legal abortion. Public opinion shifts; I might someday live amid a strongly anti-abortion culture. I have a medical condition that would make childbirth exceptionally painful. At the end of the day, I simply wish to be sovereign over my own body.

Obviously, I cannot claim to write about this issue without bias. As someone capable of pregnancy, I fear it happening unplanned and not being able to do anything about it. As a queer person, I fear a similar denial of my own autonomy regarding whom I love and how I express

¹ The United States has a long and extensive history of medical mistreatment of people of color, ranging from denying basic care to forced or coerced sterilization. Abortion rights have been a dividing issue between many women of color (WOC) and white women. By no means mutually exclusive, while many white women fight for the right to *not* have children, many WOC fight for the right *to* have children. Both issues stem from the same fundamental right to bodily autonomy but result in different social and legal goals. The history behind and activism against American eugenics is a topic far too extensive to cover in this footnote. For a brief overview, see the articles by Sanjana Manjeshwar and Emily Medosch in my References section.

Additionally, in this paper, I use the term “people of color” (POC) or “women of color” (WOC), as opposed to the term “BIPOC” (meaning Black, Indigenous, and People of Color). The term BIPOC has been criticized for focusing on specifically Black and Indigenous people within the entire umbrella of people of color. While these two groups can frequently be the center of focus, they are not necessarily the center of focus for every single conversation about race. This is not, however, my area of expertise, nor do I have any authority to claim what terminology is “correct” when talking about race. For more information, see Meera E. Deo’s “Why BIPOC Fails” in my References section.

myself. As someone who presents as a woman, I fear subjugation in an uncountable number of forms. As an anti-authoritarian leftist, I feared the bills I analyze in this paper from the moment I saw the sponsors' names. My own identity, beliefs, and experiences shape how I consider this issue. Thus, in writing this paper, I strive for full explanations and transparency.

In this paper, I seek to answer the question: how has the language of proposed abortion restrictions changed since the overturning of *Roe*? I begin with a literature review that introduces the history and theory that shape the contemporary United State's abortion debate. First, I provide an overview of the history of the social construction of a "woman" and the developments that led to the modern constructions of gender. These constructions include the conflation of womanhood and motherhood, such that much of society believes every woman to be innately nurturing and expects every woman to be a mother, and the notion of paternalism, such that women need authority to prevent them from acting against their own best interests. I proceed to explain how anti-abortion activists and legislators use these social constructions in arguing against access to the procedure. I follow with a brief overview of recent, *Roe*-era state-level abortion restrictions to provide context for legislation from before the *Dobbs* decision. I conclude the literature review with an overview of Feminist Legal Theory, the theoretical framework I use in developing the bill analysis.

The methodology chapter explains the process I used to select the five federal bills members of Congress proposed after *Dobbs* to restrict abortion. I then use the ideas that I established in my literature review to develop questions I use to analyze each bill. In my analysis, I provide a brief explanation of each bill and explain the findings from each of my questions for each of the bills. Finally, I interpret my findings in a conclusion chapter.

A Note on Language: Women or People?

Contemporary gender theory states that sex, a biological attribute, is distinct from gender, a socially-constructed identity. These ideas stem from mid-twentieth-century, Western, feminist theorists who disputed arguments that being of the female sex guarantees intrinsic attributes and common experiences of womanhood. Simone de Beauvoir, an influential feminist theorist and author of *The Second Sex*, described womanhood in a way that shapes gender theory to this day. Beauvoir stated in 1949 that woman (or any gender) is “not a natural species” or a “completed reality, but rather a becoming,” “a historical idea” (Beauvoir, 1974, 38). Over time, this construction extended beyond consideration of women and men to consideration of the binary structure as a whole. Philosopher and gender theorist Judith Butler described gender as “performative,” arguing that gender “is real only to the extent that it is performed” (Butler, 1988, 527). They² continue, as gendered “acts” are the social and cultural representation of performed gender, there is “no preexisting identity” aligned with an act, nor are there “true or false, real or distorted acts of gender” (Butler, 1988, 528). Thus, Butler urged, there is no “true gender identity” (Butler, 1988, 528).

In more simplified terms, gender theory tells us that being assigned female (or male) at birth does not necessarily mean that a person is a woman (or a man). Thus, there are people capable of pregnancy who are not women.³ This, of course, was not how most people understood

² Judith Butler goes by the singular “they/them” pronoun.

³ This understanding of gender and pregnancy is not limited to academia or the Queer community. For example, the National Institutes of Health has an entire section of its style guide dedicated to gender-inclusive language, including the concept of “pregnant people” (U.S. Department of Health and Human Services, 2022), the American Medical Association similarly writes about “pregnant patients” (American Medical Association, 2022), and even popular news organizations like CNN now opt for “gender-neutral terms” (Kaur, 2022).

gender throughout American history. Judith Butler wrote quite recently, and it was even more recently that these ideas made it into popular discourse. Additionally, this understanding of gender is not accepted by every American today. A 2022 study found that only 38% of Americans believed that whether a person was a man or a woman could be different from their sex assigned at birth (Parker, et al., 2022).

Among those who support transgender⁴ rights, there is a rift in which terms to use when talking about abortion. Some advocate for using language like “pregnant people,” “people capable of pregnancy,” or “people with uteruses” instead of “(pregnant) women.” Opponents argue that nearly all abortions are performed on women and that ignoring gender when discussing abortion hides the sexism ingrained in anti-abortion arguments. In this paper, I primarily use terms like “pregnant people” in order to accurately describe and include those impacted. However, I cannot ignore the construct of womanhood⁵ as it has long remained central to the abortion debate. There are a few situations in which I write about women, rather than people: to align with the author’s intent and when considering gendered attributes.

Many texts I reference discuss pregnant women, either because they predate the contemporary understanding of gender or because they reject the aforementioned, contemporary understanding of gender. These texts consider abortion as rigidly fitting into one side of the gender binary, and the assumptions ingrained in the binary gender construct inextricably shape the authors’ understanding of and opinions about abortion. Thus, in paraphrasing, I match the

⁴ Transgender is an umbrella term that encompasses all whose gender identities differ from their sex assigned at birth.

⁵ Here, “construct of womanhood” refers back to Beauvoir and Butler’s views on gender. While there is “no true gender identity,” our society still has constructed ideas about what it means to be a woman (or any other gender). A full analysis of these scholars’ works is beyond the scope of this paper. For more information, see Beauvoir’s *The Second Sex* (1949) and Butler’s *Gender Trouble* (1990) and *Bodies That Matter* (1996).

source diction. Additionally, many texts rely on gendered attributes and dichotomies to support anti-abortion arguments.⁶ These texts treat women substantially differently than men, and the authors' sexist beliefs shape their arguments around abortion. Thus, in identifying misogynistic language, I often incorporate the specific gender (usually women) being stereotyped.

Finally, readers might wonder why I default to pregnant "people" when womanhood is so integral to understanding the abortion debate. An analysis of gender nonconformity and abortion legislation is worthy of a paper on its own. Instead, Dr. Jules Gill-Peterson, a history professor and expert on anti-trans activism, can summarize my reasoning. She states,

Anti-abortion and anti-trans legislation are products of the same political coalition, using the same scripts and tactics. In both cases, we see the protection of a fantasized imperiled child justifying heavy-handed police state policies that restrict actual women and children's rights and bodily autonomy. The language of protection, so highly moralized, is the perfect alibi for rationalizing widespread harm. (Boylan, 2021)

Just as many people want the authority to govern their own reproductive system, many people want the authority to govern their own gender expression. The reasons for discriminating against the two are the same. Supporting both abortion and trans rights is an act of defiance against the root issue of authoritarianism, as well as following the basic human principle of "treat others the way you want to be treated."

⁶ A common example would be associating passivity with women and activity with men. This is an example of Cartesian duality, the idea that for a given field, there are two fundamental, radically different categories, such as the mind and the body, good and evil, active and passive, and men and women (Robinson, 2020). For more on Cartesian duality in regards to gender, see Sherry B. Ortner's, "Is Female to Male as Nature is to Culture?" (1972).

Literature Review

Introduction

In 1973, the United States Supreme Court ruled that the Fourteenth Amendment to the Constitution protects a pregnant woman's⁷ right to choose to terminate her pregnancy.⁸ At the time, Justice Blackmun, who delivered the opinion of the Court, stated that their task was to “resolve the issue” of the “abortion controversy” dividing Americans (*Roe v. Wade*, 1973). The matter, however, was not resolved. Those opposed to the decision protested and passed laws that challenged the decision. The Supreme Court considered, and overturned, many of those laws. The legality of abortion has been one of the most consistently controversial social issues in the United States for the past half-century.

The anti-abortion movement rallied for the subsequent 49 years to overturn the *Roe* decision. Several states have attempted to skirt the decision, including through the passage of “late-term” abortion bans⁹, parental consent requirements, waiting periods, “informed consent”

⁷ While pregnancy is not limited to women, it was considered to be at the time of the *Roe* decision. I refer to “pregnant people” in this paper for accuracy and inclusion. There are points, however, that I refer to women because of the language in the source material. For more on the gender binary and the differences between pregnant women and pregnant people, see “A Note on Language: Women or People?”

⁸ More specifically, that decisions made during the first trimester are left to the judgment of the pregnant person's physician. For the second, the state may only regulate the procedure in ways “reasonably related to maternal health” (*Roe v. Wade*, 1973, p. 114). After the point of viability, when a fetus could survive outside of the womb with medical intervention, the state may regulate or ban abortion except when necessary for the “preservation of the life or health of the mother” (*Roe v. Wade*, 1973, p. 114).

⁹ Medically, a pregnancy is considered “late-term” at 41 weeks, as typical gestation lasts 39-40 weeks. When used to refer to abortions, legislators use “late-term” to describe any abortion after the point that the legislator wants to impose restrictions. The term does not have a specific meaning and instead is used to suggest that a fetus is far more developed than reality (Planned Parenthood, 2022).

laws, and unwieldy provider regulations. President Reagan even attempted to amend the Constitution to ban abortion nationwide (Witcher, 2019, p. 48). Nevertheless, following the landmark 1973 decision, federal courts consistently “superseded states as the driving force in crafting abortion policy” (Masci & Lupu, 2013). The Supreme Court ruled on several abortion-related cases, and repeatedly reaffirmed *Roe*, before overturning the decision in *Dobbs v. Jackson* (2022).

This section seeks to establish the reasoning that got the United States to where it is today. First, I show the historical context for the modern status of American women. Next, I provide an overview of modern anti-abortion arguments and show the consistent dependence on paternalism and the conflation of womanhood with motherhood. Finally, I introduce feminist legal theory, the theoretical framework that guides my research.

History of Women as Property

Women’s subordination and the commodification of bodies date back to the dawn of agriculture, approximately 10,000 years ago. The domestication of animals enlightened people about men’s role in paternity through the passage of genetic traits and the controllability of women’s reproductive functions. Labor-intensive agriculture, such as farming wheat, increased the value of children as they could contribute to field labor. Thus, the ability to bear children, and therefore the bodies that bore them, became a commodity, something that men held control over for the benefit of their group, and gradually themselves (Strachan et al., 2020). This control established the first notions of private property: “the desire to pass on fields and herds to their own male children helped extend the notion of men’s control and ownership over *their*

patriarchal family units, over *their* fields, and over *their* herds” (Strachan et al., 2020, p. 8). The earliest structures of human society were built on the subordination of women and their reproductive functions.

The subjugation of women continued throughout human history. At the beginning of the United States, we see the subordination continued and codified. Married women, and most women married due to social pressure, had no legal autonomy or personhood; complete control passed from fathers to husbands. All wages and property belonged to their husbands, who also had “the right to absolute control” over their bodies (Strachan et al. 2020, p. 53). Legally, domestic violence and marital rape “did not exist” (Strachan et al. 2020, p. 53). Furthermore, those enslaved had no legal right to autonomy and personhood, regardless of marital status.

The rapid industrialization of the 19th century created substantial changes in American families. Manufacturing moved from the home to factories and elevated many to the middle class. Newly middle-class women soon learned the upper class’ ideals of femininity: “piety, purity, submissiveness, and domesticity” (Gentile, 2011). Advice books and magazines taught that women needed to be obedient and nurturing, both subservient and motherly to their husbands. As men’s employment outside the home furthered the public sphere as a male space, women, confined to the home, were increasingly expected to create “a haven from the evils of the public world” (Gentile, 2011). Furthermore, women had the unique and vital ability to provide a “religious, calming, and civilizing influence” for their husbands (Gentile, 2011). Any digression from this “cult of domesticity” could be detrimental to “the universal order” while additionally banishing these deviants to the status of “semiwomen” and “mental hermaphrodites” (Gentile, 2011). Noncompliance with the demands of one’s husband and society was not only shunned, it was antithetical to womanhood. While constant subservience to husbands is no

longer a societal expectation, gender and the potential for motherhood shape expected behavior and familial structure. Even though American women have, theoretically, the same legal rights as men today, gender still functions as the basis for control.

The “Woman-Centered” Anti-Abortion Movement

In the 1980s, the anti-abortion movement began supplementing fetus-centered language with woman-centered language. The fetus-centered approach focuses on the supposed life in the womb. It states that when someone chooses to not sacrifice their body and future for a fetus, they are killing a baby. Those who get abortions are “immoral, careless, or selfish murders” (Cannold, 2002, p. 172). The woman-centered approach incorporates those ancient gendered attributes through the promotion of paternalism, describing the women who get abortions as victims. They argue that the decision to get an abortion is always made under duress, with partners and family members coercing pregnant women to have the procedure, healthcare providers dismissing signs of ambivalence to profit off the procedure, and the patriarchy funding the “philosophy that women should be available to be ‘used,’ ‘vacuumed out,’ and then ‘used again’” (Cannold, 2002, p. 173). Because women are supposed to want to be mothers, they must not truly want an abortion. Because women are subservient to men, they are innately less able to make decisions for themselves than men.

In 1989, Wanda Franz, an activist in the National Right to Life Committee, epitomized this idea: she argued that those who had an abortion felt “terrible psychological pain,” having “failed at the most natural of human activities, the role of being a mother” (Moran, 2021). Anti-abortion activists, including Franz, invented a psychiatric disorder, called Post-Abortion

Syndrome (PAS). They compared it to PTSD, claiming that “abortion was so antithetical to a woman's nature that it could make her go mad” (Moran, 2021).¹⁰ Since, in their eyes, women are destined for motherhood, such a stark rejection of that expectation is inherently incompatible with one of the defining essences of womanhood. Therefore, these activists suggest that it is the duty of others to protect women from themselves. Thus, despite promoting the idea that women’s nature makes them incapable of decision-making without male interference, their anti-abortion arguments gave them the façade of advocating for a woman’s best interest.

Regardless of the rhetoric used, anti-abortion sentiments depend on paternalism.

Australian ethicist, Dr. Leslie Cannold (2002), stated,

The fetal-centred construction implicitly concedes that women make rational and autonomous choices to have abortions but demonstrate moral impairment or deficiency for doing so. The women-centred strategy focuses on pregnant women’s claimed lack of agency and consequent incapacity to ‘really’ choose (with all that word connotes) abortion. (p. 172)

Both approaches rely on the underlying belief that those seeking an abortion are not or should not be capable of making decisions for their own bodies. A substantial number of works have critiqued the fetus-centered approach, so, for the sake of concision and maintaining the focus of

¹⁰ Not only did an American Psychological Association task force determine that “severe negative reactions after legal, nonrestrictive, first-trimester abortions are rare” and should be handled like any other normal stressor, they argued that lack of access and stigma against the procedure were the “actual” stressors. Additionally, according to American history professor Rachel Moran, a scholar of maternal mental health issues, the activists who created Post Abortion Syndrome deliberately mirrored language used to describe medically-accepted mental illnesses with the intention to confuse, mislead, and manipulate (Moran, 2021). As we see in this quote, and in later chapters of this paper, painting women as victims of abortion is an oft-repeated strategy in anti-abortion rhetoric.

this paper on those who get abortions, I proceed with an analysis of the paternalism behind just the woman-centered approach.¹¹

Regardless of whether or not those claims of coercion and psychological trauma are true,¹² the woman-centered strategy relies on the assumption that those who seek abortions should be protected from themselves. It argues that, because there is (theoretically) the potential for a woman to be convinced to have an abortion that she does not want or the potential for her to develop feelings of regret and psychological pain after an abortion, she should not be able to get an abortion. Because a woman might regret her abortion, no woman should be able to get an abortion. Because a woman might regret her abortion, it is the duty of those wiser and more determined than her to ensure that she does not have one.

Abortion Restrictions

While many woman-centered anti-abortion activists do not argue for full abortion bans, the paternalism behind their strategies still holds. Many advocate for laws requiring people to receive specific information and undergo a waiting period before terminating their pregnancy. They claim that doing so protects and defends the pregnant person's rights "by giving them the understanding and time necessary to give informed consent to abortion" (Cannold, 2002, p. 174). These regulations, however, "[treat] abortion differently to other medical procedures, [violate] the privacy of the doctor-patient relationship, and [delay] women's abortions" (Cannold, 2002,

¹¹ For example, the fetus-centered approach generally argues that a fetus is a living person and that pregnant people are obligated to sacrifice themselves to support fetuses. Even if a fetus was a living person, people are not obligated to sacrifice their own bodily autonomy for others (Coggon & Miola, 2011). Anti-abortion advocates would not argue for mandatory donation of organs that someone can live without, especially not if the process took nine months.

¹² Most of the time, they're not, but the history behind PAS is beyond the scope of this literature review. More information can be found in the cited journal article by Moran.

p. 174). The waiting period can be painful or dangerous to those with medical conditions resulting from their pregnancy, and informed consent laws are “designed not to inform the women's consent but rather to persuade her to withhold it altogether” (*Akron v. Akron Center for Reproductive Health*, 1983). Additionally, these regulations make the procedure more inaccessible for those who must travel a great distance, take time off work, or rely on others for transportation to get the procedure.

Even prior to the *Dobbs* decision, when abortion was theoretically a protected right, many states limited the number of providers who could perform the procedure,¹³ meaning that many patients, even those in urban areas, were several hours from the closest provider. This distance combined with the fact that most Americans do not get paid time off work means that many patients might have to give up hours, or even days, worth of wages to get the procedure, plus pay for travel expenses. Furthermore, abortions are not usually cheap. The procedure alone costs around \$500 in the first trimester and around \$2000 in the second (McCann, 2022). Having health insurance does not necessarily make the procedure cheaper, either. Private health insurance companies are not required to cover abortions, and public insurance only covers the procedure in cases of rape, incest, or when continuing pregnancy endangers the life of the patient.¹⁴ One study found that nearly 70% of patients pay for their abortions entirely out of pocket (Upadhyay et al., 2022). As about half of people who receive abortions live below the

¹³ Such as by requiring surgical privileges in nearby hospitals or requiring clinics to comply with facility layout or licensing standards usually expected of operating rooms. These requirements do little to improve the quality of care and can be quite difficult to meet (Guttmacher Institute, 2023).

¹⁴ A few states use their own funds to cover abortions for Medicaid enrollees, but federal funds can only be used for the procedure in the exceptions above. I go into federal funding of abortion in more depth in the Bill Selection section of the Methodology chapter.

poverty line (McCann, 2022), every abortion restriction that increases cost, time, or distance makes the procedure less accessible, and potentially infeasible, for those who need it.

Those in favor of these regulations have decided that the chance a person might change their mind about their own body after electing to have a procedure is worse than the consequences of delaying an abortion or even making one inaccessible for someone who medically needs it. That decision depends on the assumption that those seeking an abortion need others to prohibit them from making decisions about themselves. It is the definition of paternalism: the practice of restricting people's freedom and responsibilities for their supposed best interest.

Abortion Bans

Furthermore, despite supposed concern about only those for whom an abortion is not in their best interest, woman-centered anti-abortion activists often do not disagree with completely banning abortion either. David Reardon, an anti-abortion author, states his desire to “protect the ‘unborn’” (Cannold, 2002, p. 173) but advocates for the public denial of this goal so as to not give ammunition to his ideological opponents. Instead, he states,

We must always emphasize that our goal is simply to help and protect women. We may predict that our efforts will lead to the demise of the abortion industry, but that is not our direct goal – it is merely a byproduct of our legitimate concern to protect women's rights.
(Cannold, 2002, p. 173)

Advocates' unwillingness to be transparent about goals demonstrates the limited salience of the issues that woman-centered anti-abortion activists claim to uphold. For many, claiming to care about women is simply a more palatable way to promote the same goal of ending abortion.

Similarly, many woman-centered anti-abortion tactics rely on manipulation, omission, and lies to coerce pregnant people to not have an abortion. The language activists use when talking about the procedure normalizes “a catastrophic view of abortion” (Cannold, 2002, p. 174). Despite the fact that pregnancy can frequently cause several dangerous and debilitating conditions, and that American women are “14 times more likely to die from by carrying a pregnancy to term than by having an abortion” (Goodwin, 2022),¹⁵ woman-centered anti-abortion activists repeatedly focus on the complications that can arise after an abortion, often including issues unrelated to the abortion, to construct and reinforce the procedure as an “inherently traumatic event” (Cannold, 2002, p. 174). Additionally, Cannold (2002) explains, “women-centred strategy focuses primarily on post-abortion counselling. The goal of the latter is to suggest to women or couples that any emotional distress the woman may experience after abortion was caused by the abortion” (p. 174). Woman-centered anti-abortion activists persuade emotionally vulnerable people that negative experiences and feelings they have resulted from their choice to have an abortion and that the pregnant person was actually coerced into the procedure, so they can build more support for their movement to control other people’s bodies. They use the same malicious tactics that they accuse the “abortion industry” of using, so they can influence what others do to their own bodies. Thus, the anti-abortion movement, regardless of how activists explain their reasoning, relies on the goal of control.

¹⁵ This rate is even more dramatic for people of color. In the most extreme instance, Black women in Mississippi are 118 times as likely to die from carrying a pregnancy to term than by an abortion (Goodwin, 2022).

Conflation of Womanhood and Motherhood

In addition to the persistent goal of gaining control, the anti-abortion movement also relies on the conflation of womanhood with motherhood. As established above, the notion of private property developed from the control of a woman's reproductive functions to provide a beneficial resource for men: labor. One of the basic building blocks of human society exists because of the "job" of women to bear children. Men's and women's jobs grew to become separate, as men provided resources and women created the potential for future resources through bearing children.

By the nineteenth century, the goal for American families was to make enough money that only the man needed to work outside the home (Welter, 1966). For middle- and upper-class women, their "job" was to stay at home. Not only was part of this career to bear and raise children, but it also included what was essentially mothering their husbands.¹⁶ Additionally, calling this designation a career is an understatement; being a mother was not an occupation, it was the natural order. Historian Barbara Welter (1966), who advanced the idea of the 19th century's "Cult of Domesticity" or "True Womanhood," remarked: "If anyone, male or female, dared to tamper with the complex of virtues which made up True Womanhood, he was damned immediately as an enemy of God, of civilization, and of the Republic" (p. 152). If a woman was not a mother, society dictated that she was not truly a woman.

Contemporary United States still struggles with this conflation of womanhood and motherhood. While modern society has, for the most part, accepted that not every woman will

¹⁶ For more about the expectation of bourgeois, white women to be housewives, see Betty Friedan's *The Feminine Mystique* (1963).

have children, many associate the capacity to bear children with the definition of motherhood, and view bearing children as the ultimate purpose of womanhood.

Mainstream American society no longer banishes women from the public sphere. While many still chose to be homemakers, women are no longer labeled immoral for simply having a life outside the home. Most contemporary American women, regardless of class, intend to join the workforce. According to a Gallup study, even a majority of those voluntarily out of the workforce, such as stay-at-home mothers and homemakers, would prefer to work a paid job either in addition to or instead of staying home full-time (Ray & Esipova, 2017). Furthermore, the concept of gendered careers and fields has diminished greatly. Many women seek out career-focused education that was historically only offered to wealthy white men. The percentage of American women with college degrees has been higher than men since 2014, reaching 39.1% and 36.6%, respectively in 2021 (Duffin, 2022). However, the recent acceptance of women in education and the workforce has not done away with the rest of pre-modern gendered expectations; society still expects and pressures women to bear children.

Dr. Katie Gentile (2011) calls this expectation of bearing children and existing in the public sphere, “the Cult of Domesticity for the 21st Century.” The virtues of “piety” and “purity” still exist, now existing in the form of diet culture, perceptions of “health,” and maintaining thinness. Our cultural narrative around pregnancy fixates on the past: past body weight, eating, drinking, and drug use all are “always present in her body’s capacity for reproduction” (Gentile, 2011). Women’s bodies are always potential vessels for babies, and one must be treated not as their own body but rather as the “mythical future body of [their] baby” (Gentile, 2011). A woman must patrol and limit her behaviors (or it is the duty of her husband, family, or society if she fails), or else the woman is to blame for the future’s hypothetically unhealthy baby. After

giving birth, society generally expects women to eliminate any evidence of reproduction: they must quickly lose any weight gained during pregnancy, regardless of the health consequences. Thinness is *purity* and the “self-control” to stay on a diet is *piety*.

Domesticity and submissiveness take their modern forms not through exclusion from the public sphere but through management of the private. Many American women still manage the vast majority of childcare and household chores, they just now have college degrees, careers (or had careers), and will bring their children in public. For example, in 1960, only 18% of new mothers had at least some college education. As of 2011, that number had reached 66% (Livingston & Cohn, 2013). Television and advertisements repeatedly push the idea that household tasks, including caring for children, fall to the wife: commercials for cleaning and baby products almost exclusively feature women (Gentile, 2011).¹⁷ Just prior to the pandemic, Gallup found that for heterosexual couples living together, in a list of 12 home- and child-related chores, women were more likely than men to be in charge of everything except financial decisions, car maintenance, and yardwork (Brenan, 2020). In 2020, the disparity grew further. Due to Covid-induced school and daycare closures, millions of women left the workforce out of necessity (Clay, 2022). They gave up their careers to care for children, while often, their husbands did not. Furthermore, a study by the American Psychological Association found that in nearly 37% of dual-earner opposite-sex couples with young children, the woman did most or all of the childcare. The remaining percentages were forms of shared strategies with no mention of couples where the man did most or all of the childcare (Shockley et al., 2021).

¹⁷ When men do make an appearance, they usually are never shown doing any labor (like Mr. Clean), or their role is to argue with their wife that something does not need to be as clean as she thinks (like no-rewash-needed dish detergent). On the rare occurrence that commercials show a man cleaning without complaint, it is presented as humorous and usually intended to seduce a woman.

Furthermore, just as women's books and magazines taught and reinforced the virtues of piety and purity and the importance of motherhood in the nineteenth century, women's magazines and blogs, like *People* and *Good Housekeeping*, push those same ideas today. One example is celebrity interviews, with Oscar-award-winning superstars like Gweneth Paltrow saying that their "life didn't truly have meaning" (Gentile, 2011) before becoming a parent. If someone as interesting and successful as a movie star says that their children are the reason they were put on this earth, then, at least to those who admire them, having children sounds like a good idea. When this is blown up to the extreme, however, with nearly every piece of media insisting that motherhood is the "most meaningful activity" a woman could "achieve" (Gentile, 2011), it pushes the narrative that a woman's true purpose is motherhood. If other life pursuits could be more universally meaningful, then that would be what graces the covers of magazines. And if motherhood wasn't the true purpose of womanhood, then it would not be so universally meaningful.

The woman-centered anti-abortion rhetoric pushes this idea as well. As established above, activists argue that the confusion and despair from an unplanned pregnancy cause pregnant people to lack the "rationality and autonomy required to make and implement the decision they know to be right and truly wish to make: to continue the pregnancy and become mothers" (Cannold, 2002, p. 173). Even though they were not planning on getting pregnant, and are considering an abortion, they actually, truly want to become mothers. Motherhood is in their nature.

Legislation

The expectation that women choose children over their careers bleeds into legislation. A state representative in Idaho proudly exclaimed that he voted against using federal funds to increase early childhood education because “any bill that makes it easier or more convenient for mothers to come out of the home and let others raise their child, I don’t think that’s a good direction for us to be going” (Gay, 2022). A state representative voted against using federal funds for education because it would make it easier for women to defy gender roles. The expectation that women uphold the Cult of Domesticity’s virtues and selflessly dedicate themselves to motherhood continues to this day.

Anti-abortion policy repeatedly combines paternalism and desire for control with the conflation of womanhood and motherhood. One study found that, of the 727 anti-abortion measures passed in state Houses or Senates between 2010 and 2015, “622 incorporate surveillance and social control mechanisms that operate together to socially construct women as a dependent population in need of government protection” (Doan, 2020). These bills imply that women need protection both from their own ignorance and from “unethical” abortion providers, such as through requiring “rigorous consent forms,” ultrasounds, waiting periods, information on medical abortion reversal, promotion of continuing pregnancy, and asserting “a man’s right to sue for the wrongful termination of a woman’s pregnancy” (Doan, 2020).¹⁸ The vast majority of

¹⁸ Additionally, many of these social control and surveillance bills disproportionately target people of color (POC). According to Doan (2020), “their behavior as pregnant or potentially pregnant women” is “subject to more scrutiny and punishment” than white people. While these laws “appear race-neutral,” they stem from implicit biases that the criminal justice system uses to disproportionately charge lower-income people and POCs. This disparity exists across the United States, with some southern regions having “up to 75 percent” of their criminal and civil cases, under these laws, “being brought against Black women” (Doan, 2020).

these regulations came from Americans United for Life (AUL), a legal hub that develops anti-abortion legislation. The AUL claims that their legislation “exposes the lie propagated by the abortion industry that a woman’s interests are often at odds with those of her unborn child” and that, with the passage of said legislation, women will be knowledgeable enough to “reject the fraudulent promises of the abortion industry and see abortion – not as a false panacea – but as a real threat to both their welfare and to their unborn children” (AUL, 2017, p.1). According to those who drafted the legislation, women need government intervention to tell them what is best for their bodies. These abortion restrictions function to uphold the very same sexist, paternalistic ideas traced throughout human history and promoted in modern anti-abortion activists’ rhetoric.

These observations, however, do not necessarily hold true anymore. Before the *Dobbs* (2022) decision, any abortion regulation taken seriously enough to pass in a state House or Senate had to consider *Roe*. These regulations either mimicked another state’s existing regulation, blatantly violated *Roe* and got overturned in court, made minor-enough changes to existing precedent to not get overturned in court, or violated *Roe* just enough that the legislators hoped it would eventually end up in front of the conservative-majority Supreme Court, who would weaken or overturn *Roe*. The first two possibilities are not very impactful. They either regard legislation that does not do anything new or legislation that is illegal. The second two, however, work to gain control over something other than bodies: the federal government.

Regulation intended to stretch the limits of *Roe* allows for gradual and gradual stripping down of the precedent. For example, if a 24-week gestational-age abortion ban is legal, then why not try a 22-week ban? Are those two weeks going to be what the courts decide is the rigid, absolute line separating constitutionality from unconstitutionality? Probably not. With slow enough progress, those passing these gradual, small abortion restrictions can dramatically shape

what gets defined as allowed. The legislation designed to spark a court fight works more aggressively. The Supreme Court could not overturn *Roe* without hearing a case that potentially violated *Roe*. Since the Supreme Court has an anti-abortion conservative majority, it seemed like a safe bet for legislators that abortion restrictions would not lead to a strengthening of *Roe*. Legislators simply had to pass several bills and hope that one would make its way high enough to change the law to what they wanted it to be. With the overturning of *Roe* in *Dobbs v. Jackson* (2022), these anti-abortion legislators' goal of controlling the federal government worked.

Since the overturning of *Dobbs*, legislators no longer have to work within the confines of *Roe*. Post-*Dobbs* anti-abortion legislation could continue with the woman-centered, “womanhood equals motherhood,” “women need protection” strategy, but it might not. *Roe*'s requirement for second-trimester abortion regulation to be “reasonably related to maternal health” (*Roe v. Wade*, 1973, p. 114) could have influenced how states attempted to restrict abortion under *Roe*. Without the constitutional reason to argue that abortion restrictions better women's health, legislators might simply choose to not frame them in that way. Instead, there could be a return to the fetus-centered approach, or even the development of a new anti-abortion approach.

Feminist Legal Theory

Before progressing into the methodology for this paper, I first introduce the framework used to guide the methods: feminist legal theory. Feminist legal theorists seek to consider the full perspective of the marginalized, to use both the abstract *and* the specific to inform and interpret

the law (Weisberg, 1993). This theory is ideal for analyzing language in legislation as it aligns with my academic training, political experience, and the areas which I wish to analyze (proposed laws). According to family law professor and feminist scholar Dr. Kelly Weisberg, feminist theory seeks “to expose the social construction of beliefs concerning truth, knowledge, power, the self, and language that serve to legitimize existing structures of dominance in contemporary Western culture” (1993, p. 532). Weisberg continues, “no neutral process of reason or science can reveal reliable universal truths. Instead, knowledge is the result of ideological or cultural invention” (1993, p. 532). Furthermore, there is not “an objective language of knowledge: ‘rational’ discourse is not neutral but rather a social construct through which certain ‘truths’—those which perpetuate power hierarchies—are maintained” (Weisberg, 1993, p. 532). These assertions translate to the “feminist” part of “feminist legal theory,” as Weisberg argues that gender differences are a construct of society, not an absolute biological truth. Promotion of these essential gender differences, regardless of motivation or political affiliation, recreates the constructions of a natural inequity and maintains the existing hierarchical structure of power. As such, gender essentialism and the construction of womanhood play a substantial part in understanding much of the language used in the abortion debate, feminist legal theory is an ideal framework to analyze how gender impacts the rhetoric legislators used in proposed bills.

Similarly, Weisberg’s assertions extend to the “legal” part of “feminist legal theory.” She states that “law itself and the criteria for legal legitimacy are social constructs, not universal givens” (Weisberg, 1993, p. 532). The legal system was created by and for those in power. Feminist legal theory urges recognition of the construction of these systems and their relationship to contemporary power hierarchies. Without this recognition, our legal system cannot eliminate structural inequality. As power structures and the use of the law to maintain

those systems play such a large role in abortion legislation, feminist legal theory is an ideal framework to consider how proposed bills reinforce and build upon institutionalized power structures.

Law professor Dr. Lucinda Finley argues in Weisberg's (1993) book that legal language "is a gendered language of dichotomies, oppositions, and conflict" which "valorizes male perspectives and experiences" and presents the law as a falsely "objective" or "neutral" discourse (p. 534). She urges feminists to critically engage with language and work to incorporate "women's perspectives, experiences, and voices into law" (Weisberg, 1993, p. 534). This work is necessary in the development of a more equal legal system and overall society. For the sake of concision later in this paper, I group Weisberg and Finley's ideas together and refer to them as the theme of "constructs as universal truths."

One of the most important methods in feminist legal theory is consciousness raising: the act of viewing the world or the impact of a bill from the perspective of the marginalized with full consideration of the details and emotions of life under unequal, patriarchal, racist systems. Consciousness raising criticizes the abstract, seemingly rational and emotionless, dominant discourse which, Weisberg (1993) argues, allows theorists to discuss fundamental necessities for a free and equitable life with no consideration of the serious impacts on real people.

In conclusion, feminist legal theory provides a framework for analyzing language in legislation that considers the perspectives of marginalized individuals and recognizes that the law and its criteria for legitimacy are social constructs. Considering gender essentialism and the construction of womanhood is important in understanding the language used in the abortion debate. Legal language often valorizes male perspectives and presents the law as a falsely destined, objective, neutral discourse. Consciousness raising, in which one views the impact of a

bill from the perspective of marginalized individuals, is an important method in feminist legal theory. I used this discourse to develop the methods that I used in the rhetorical legislation analysis. Feminist legal theory shaped the questions I outline below that I used in pursuit of my overarching question: How has the language of proposed abortion restrictions changed since the overturning of *Roe*?

Methodology

Introduction

This section describes the methods I used to select the anti-abortion bills analyzed in this study. In order to develop the methods used in bill analysis, I first reviewed literature on feminist legal theory and methods. This involved examining the various frameworks and perspectives within feminist legal theory, such as consciousness raising and the presentation of social constructs as objective truths. From this review, I then used feminist legal theory to develop several questions to guide my analysis of the five bills selected for study. I designed these questions to explore how the bills addressed issues of gender, reproductive autonomy, and power dynamics, as well as to identify any underlying assumptions or biases that might be present in the language of the bills. This bill analysis serves as the primary act in answering the question: how has the language of proposed abortion restrictions changed since the overturning of *Roe*? The following section provides a detailed account of each phase of the bill selection process.

Bill Selection

I began bill selection by searching the word “abortion” on Congress.gov for the 117th (2021-2022) Congress. Of the 1,273 results, 283 were pieces of proposed legislation.¹⁹ Of those

¹⁹ Other documents include committee reports, communications, and the Congressional Record.

283 results, 220 were bills.²⁰ Next, I restricted the results to bills published since the *Dobbs* decision (June 24th, 2022), leaving 59 bills. As I wanted to look at bills restricting abortion, I then eliminated the bills with blatantly pro-abortion titles and texts, (e.g., language of “protections,” “increasing access,” “increasing funding”). This step left me with about thirty bills, all of which members of the Republican party sponsored.

In the second phase, I eliminated pieces of anti-abortion legislation that would not shape domestic abortion policy. I first eliminated two bills about international policy.²¹ Next, I eliminated bills that mentioned, but were not fundamentally about, abortion²² and bills that were symbolic in intent and would not impact domestic policy.²³ In short, the bills I eliminated in this phase were not, at their core, restrictions on abortion, and this elimination ensured focus on my overall question. This phase left me with twelve bills intended to regulate abortion, with bills introduced in both the House and Senate counted once.

The third phase was choosing which pieces of anti-abortion legislation to analyze. I eliminated bills that focused on preventing existing policy from changing, rather than changing policy. The overturning of *Roe* created a massive shift in what legislators could do.²⁴ The objective of this paper is to analyze the language that legislators trying to make changes used in reaction to that shift, rather than analyzing the language of those trying to prevent others from making changes and maintaining the pre-*Dobbs* status quo. The bills eliminated in this phase

²⁰ As opposed to resolutions or amendments to bills.

²¹ i.e., bills criticizing human rights violations in China and North Korea that included forced abortions in a long list of offenses.

²² E.g., bills categorizing vandalism of Crisis Pregnancy Centers and religious organizations as terrorism; bills seeking to examine the impact of “liberal policy” on American cities, including abortion rates for people of color; lengthy bills outlining unrelated health care policy changes that included a couple of lines about not providing federal funding for abortions.

²³ i.e., establishing the “Month of Life Celebration”

²⁴ As the overturning of *Roe* eliminated the legal protection of abortion rights, meaning legislators could legally restrict/ban the procedure. For more information, see the Legislation section of the Literature Review chapter.

mainly focused on banning the use of federal funding or land to provide abortion or resources to aid in obtaining an abortion, which is already illegal. Thus, these bills attempted to codify the Hyde amendment or eliminate potential “loopholes” in the Hyde amendment, and not substantially change how abortion is funded in practice.²⁵ I also eliminated bills due to brevity; many were only a few lines long, stated only the policy being changed without explanations or opinions, and contained very little language to analyze.²⁶

The bill selection process left me with five bills to analyze, in no particular order:

1. Protecting Pain-Capable Unborn Children from Late-Term Abortions Act (H.R. 8814/S. 4840)
2. Preventing Abortion Sanctuaries Act (H.R. 8501)
3. Standing with Moms Act (H.R. 8384/S. 4541)
4. Providing for Life Act (S. 4868/H.R. 8851), and
5. Pharmacist Conscience Protection Act (H.R. 8820)

Question Development

To analyze the selected bills, I compiled several questions to guide and code my notes on the legislation’s full text. I developed these questions from themes and ideas described in

²⁵ The Hyde amendment is the ban on federal funding of abortion. It has been in effect since 1980 and has allowed exceptions for rape, incest, or if the life of the pregnant person is in danger since the Clinton administration. The Hyde amendment is not a permanent bill but rather a “rider” to an annual Labor and Health and Human Services appropriations bill, meaning that the amendment must be renewed every year to remain in effect. Every year, Congress has the potential to modify or eliminate the Hyde amendment. However, the amendment has remained the same since 1993 (Rovner, 2009).

²⁶ While I have deemed these bills not worth a full analysis, the fact that several of the anti-abortion bills proposed since *Dobbs* focus specifically on the allocation of federal resources signals an important issue for many members of Congress, which I will elaborate on further in the Analysis chapter.

feminist legal theory and feminist interpretations of the anti-abortion movement that guided my literature review chapter. To summarize, the major concepts from feminist legal theory are “constructs as universal truths” and consciousness raising. “Constructs as universal truths” concerns the presentation of ideas, such as presenting a societally-constructed concept (like gender) as the absolute, destined objective reality (like treating an individual culture’s ideas around gender as innate, biological, and true for all people). Consciousness raising is the act of considering those whom the object of focus (like a bill) will most impact. The major concepts from my historical overview are paternalism, the subjugation of women, and the conflation of womanhood and motherhood. I considered both specifics of individual bills and the comparisons between the bills overall. Table 1 contains the questions used in bill analysis and the underlying themes behind those questions.

Table 1

Bill Analysis Questions

Question	Underlying Theme
What is the bill attempting to control?	Paternalism/Subjugation of women
How do the bills frame the pregnant person?	Conflation of womanhood and motherhood
What are the justifications for the bills?	Paternalism/Constructs as universal truths
Are there patterns between bills?	<i>N/A, See explanation</i>
Do the bills present societal constructs regarding law, power, and gender as objective truths?	Constructs as universal truths
Do the bills include the gendered language of dichotomies?	Constructs as universal truths
How and in what ways will the bill impact people?	Consciousness raising
How does the bill treat evidence?	Consideration of Evidence

Note. Full explanations of and expansions on these questions and themes can be found in Appendix A.

Reflection on Selected Legislation

While selecting these bills and developing these questions, I noticed a few things that did not fit neatly into my analysis that I must consider to accurately interpret my findings. Most of the bills were proposed either between the Fourth of July and August recesses or between the August and the House's October recesses. The former was the session immediately following the overturning of *Roe*; the latter was the subsequent session and the session preceding Midterm elections. Given the Democratic presidency and majority in both chambers of the 117th Congress, none of the proposed anti-abortion bills would have been popular with a majority of Congress and were therefore unlikely to make it to a vote. Legislators would have been aware of this. Thus, it is likely that these bills were not proposed with the intention of being signed into law.

It is possible that the bills were proposed for the two following reasons: A signal to voters: the bill provides a guideline for what an individual politician is in favor of and could build support from anti-abortion voters in preparation for the Midterm Elections. A signal to the party: the bill indicates what path the politician or the Republican party might do if the Republicans win majorities in the House and Senate in the Midterm Elections.²⁷ While it is difficult to determine the exact goals the drafters of these bills held, the fact that these bills may have latent intentions will be important in analyzing their chosen language.

²⁷ We now know that the Democrats maintained a majority in the Senate while the Republicans took the majority in the House for the 118th Congress. Nevertheless, I keep these goals in mind for considering the legislation as it was proposed prior to Midterms, and that it could resurface in future Congresses where the GOP holds greater power.

Analysis

Intro

In this chapter, I provide an overview of the five bills I selected as described in the methodology chapter. I then go on to answer each of my proposed research questions in depth for each selected bill. The five bills that I analyze are the Protecting Pain-Capable Unborn Children from Late-Term Abortions Act (H.R. 8814/S. 4840), the Preventing Abortion Sanctuaries Act (H.R. 8501), the Standing with Moms Act (H.R. 8384/S. 4541), the Providing for Life Act (S. 4868/H.R. 8851), and the Pharmacist Conscience Protection Act (H.R. 8820). The notes I took on each bill in developing this chapter can be found in Appendix C.

1. Late-Term Abortions Act

The Protecting Pain-Capable Unborn Children from Late-Term Abortions Act, which, for the sake of concision, I will refer to as the Late-Term Abortions Act, was sponsored by Sen. Lindsey Graham (R-SC) and Rep. Christopher Smith (R-NJ) and introduced on September 13th, 2022. The bill would criminalize abortions performed at or after a gestational age of fifteen weeks, with exceptions for rape, incest, or if the pregnant person's physical life is endangered.²⁸ The bill also states that the person who sought the abortion would not be prosecuted. Instead, the punished would be the abortion provider. The bill states that by a gestational age of fifteen weeks, "there is substantial medical evidence" that a fetus can feel pain. Thus, the bill justifies a

²⁸ The bill states that psychological and emotional conditions are insufficient reasons to warrant an abortion.

fifteen-week ban under the argument of preventing fetal suffering. Of all the analyzed bills, the introduction of the Late-Term Abortions Act resulted in the most media coverage. This was likely due to the substantial restrictions proposed and the fame of its sponsor, Sen. Graham.

2. Preventing Abortion Sanctuaries Act

Rep. Doug Lamborn (R-CO) introduced the Preventing Abortion Sanctuaries Act on July 26th, 2022. This bill focuses on punishing states by withholding Department of Health and Human Services (HHS) funds from any state considered an abortion sanctuary. States that (1) have a fund to assist those traveling into the state for an abortion, (2) do not have any gestational age limits, or (3) prohibit the enforcement of another State's law that would punish someone for receiving, performing, assisting (or attempting to assist) an abortion are considered to be abortion sanctuaries.

The HHS receives more funding than any other federal agency, at an estimated 26% of the total federal budget (U.S. Treasury, 2022). Much of this funding gets distributed among the states. In Massachusetts, for example, over \$13.5 billion out of the state's annual \$50 billion budget comes just from the Department of Health and Human Services (General Court of the Commonwealth of Massachusetts, 2021). The state takes in almost as much revenue in federal transfers from the HHS as it does from all non-income taxes combined. Given how substantial HHS funds are, and how states rely on them to provide life-dependent services such as Medicaid,²⁹ the potential outcomes of this bill cannot be underestimated.

²⁹ Medicaid is federal program that every state is required to implement and provide some funding for. It provides health coverage for some low-income people. It is often grouped with Medicare, the federal health insurance program for those 65 and older and some people with disabilities (U.S. Department of Health and Human Services, n.d.).

3. Standing with Moms Act

Sen. Marco Rubio and Rep. Nancy Mace sponsored the Standing with Moms Act, which they introduced on July 14th, 2022. The bill would establish a website, life.gov, that would provide pregnancy-related information and resources for pregnant people with the exclusion of any resources that perform, induce, refer for, counsel in favor of, or provide financial support to any organization that conducts abortions. Instead, the site would highlight the risks of abortion and offer “alternatives.” Unlike the other bills, the Standing with Moms Act’s lack of transparency is notable in its text. The omission of “pro-abortion” resources from the proposed site is not explicitly stated until the definitions section at the end of the bill.

4. Providing for Life Act

The Providing for Life Act, sponsored by Sen. Marco Rubio (R-FL) and Rep. Ashley Hinson (R-IA) states that it would “provide support and assistance to unborn children, pregnant women, parents, and families” (Providing for Life Act, 2022). The bill is the longest of those I analyzed in this paper. Rubio and Hinson introduced it on September 15th, 2022, and it contains the entirety of Rubio’s Standing with Moms Act. The bill has several sections (see more in Appendix C – Analysis Notes), most of which do not address abortion and are out of the scope of this paper. The relevant section focuses on pregnant students’ rights, accommodations, and resources.³⁰ The bill would require post-secondary institutions to provide students with information about pregnant students’ rights and resources but excludes abortion services.

³⁰ The section that is identical to the Standing with Moms Act is also relevant, but I will only refer to it going forward as the Standing with Moms Act, and will keep it separate from the topics of the rest of the bill, namely

5. Pharmacist Conscience Protection Act

The final bill I consider is the Pharmacist Conscience Protection Act. Rep. Earl Carter (R-GA) introduced the bill on September 19th, 2022. This bill claims it would prohibit governmental discrimination against pharmacists with objections to abortion. While most people would agree that the government should not punish private citizens for an opinion, that is not actually what the bill proposes. Instead, it states that any entity receiving assistance from the federal government would be unable to take any negative action against a “specified health care provider” (pharmacist, pharmacy technician, pharmacy, or owner of a pharmacy) for not storing, filling, or referring a drug approved by the FDA to cause an abortion or that the specified health care provider “in good faith believes may be used to cause an abortion” (Pharmacist Conscience Protection Act, 2022). The bill goes on to state that the objection could be to any or all abortions on “moral, religious, conscience, or medical judgment grounds.”

This bill, like the Preventing Abortion Sanctuaries Act, cannot be understood without considering how much our healthcare infrastructure relies on federal funding. One of the most prominent examples is vaccination against Covid-19. Nearly every pharmacy in the country distributed vaccinations, which the federal government paid for much of the development of and made free to the public. Under the Pharmacist Conscience Protection Act, those pharmacies would be prohibited from punishing or terminating an employee (pharmacist) who refused to do a basic expectation of their job (fill a prescription).

pregnant students’ rights and resources. It is quite common for a bill to include several unrelated topics as a package in order to appeal to as many representatives as possible, theoretically increasing the likelihood of passage.

Bill Analysis by Theme

Now that I have introduced the bills, I can determine the answers to the questions that I proposed in Table 1 of the Methodology chapter. I have outlined the answers to these questions in tables for each question. The name of the bill is accompanied by a “keyword” to aid in keeping track of each bill.

Focus of Control

The first question I asked was “what is the bill attempting to control?” Each bill focused on controlling an entity, such as the pregnant person or an abortion provider, and an action, such as information sharing or financial assistance. Table 2, on the next page, contains the entity and action that each bill focuses on. The most notable trend across these bills is that, despite regulating a procedure exclusively performed on pregnant people, none of the bills explicitly focus on controlling the pregnant person. This approach differs from other abortion restrictions that aim to penalize or criminalize people who seek abortions. Despite the fact that these bills directly impact pregnant people, the bills do not address the concerns or needs of those seeking abortion care and instead seek to impose government control over the medical decisions by limiting access at the state level, removing access at university campuses, penalizing abortion providers, and providing pharmacists the ability to deny care.

Table 2

Bills' Focus of Control

Bill Name	Bill Number	Keyword	Entity Being Controlled	Action Being Controlled
Late-Term Abortions	H.R. 8814/S. 4840	15 Weeks	Abortion Providers	Abortions Performed After 15 Weeks
Preventing Abortion Sanctuaries	H.R. 8501	DHHS	States	Financial Assistance, State Sovereignty
Standing with Moms	H.R. 8384/S. 4541	Website	Abortion Providers	Information Dissemination
Providing for Life	S. 4868/H.R. 8851	Students	Colleges/Universities	Information Dissemination
Pharmacist Conscience Protection	H.R. 8820	Pharmacy	Those overseeing pharmacists and pharmacies	Punishment

The Late-Term Abortions Act focuses on controlling abortion providers. The bill prevents providers from performing abortions after 15 weeks³¹ which impacts pregnant people, though the bill states that it could not be used to prosecute those who sought the abortion. Instead, punishment falls to the provider. The bill proposes criminal penalties on providers who violate the ban, with fines and possible imprisonment for up to two years. This approach differs from other abortion restrictions that aim to penalize or criminalize pregnant people who seek abortions. Critics argue that the bill places an undue burden on providers and violates a pregnant person's right to choose by limiting their access to abortion services. Supporters of the bill argue that it is necessary to protect fetal life and prevent late-term abortions from being performed for non-medically necessary reasons. Ultimately, the bill limits the rights, autonomy, and authority of both the patient and the provider.

³¹ With exceptions for saving the pregnant person's life or in cases of pregnancy resulting from rape or incest.

The Preventing Abortion Sanctuaries Act similarly does not focus on controlling the pregnant person. Indeed, the bill would impact people through a reduction in available health care resources (either access to abortion or federal health care funding), but it is the states, and whether or not they aid abortion, that the bill is concerned with. The punishment for states' non-compliance is the elimination of their DHHS funding—a consequence that would impact every resident.³² This effectively targets states and localities that have declared themselves "sanctuaries" for reproductive rights and seeks to penalize them for taking a stand in support of reproductive autonomy. The bill would have a significant impact on access to healthcare for pregnant people, particularly those in states with more restrictive abortion laws or limited healthcare resources. Again, the bill seeks to limit the role of states in providing abortion care, but not necessarily pregnant people.

The Standing with Moms Act focuses on controlling abortion providers, but more indirectly than the Late-Term Abortions act. Instead, this bill shapes information dissemination through online resources. The bill would mandate a government-run website that provides explicitly anti-abortion resources (with the exclusion of any pro-abortion resources) under the guise of providing healthcare information. The bill prohibits “an entity, including its affiliates, subsidiaries, successors, and clinics that performs, induces, refers for, or counsels in favor of abortions, or provides financial support to any other organization that conducts such activities” from inclusion on the proposed site (Standing with Moms Act, 2022). For example, the entirety of the federal and every state government, along with every medical entity affiliated with an entity that accepts Medicare or Medicaid (such as a doctor who is not covered by Medicaid but

³² As mentioned in the bill summary above, DHHS funds make up a substantial portion of state budgets (for example, more than ¼ of Massachusetts'). If a state lost that entire revenue source, it would certainly shape the state's spending in ways that would impact everyone, regardless of whether they previously relied on those funds.

works in a hospital or practice where someone accepts Medicaid or a pharmacy that provides prescriptions to people on Medicaid) would be excluded. This exclusion is because the federal government funds several entities that violate this rule (such as Planned Parenthood) through Medicaid and HHS grants for health care services. Even if the federal government stopped allowing Medicare/Medicaid to be used at clinics that perform abortions,³³ the government would *still* need to be omitted from the proposed government-run website under this language because of the sheer number of health care providers that accept Medicare/Medicaid and “[counsel] in favor of abortions.”³⁴ Every state would be excluded because states are required to implement and provide funding for Medicaid. Furthermore, the Medicaid Act and the current language of the Hyde amendment require Medicaid to cover abortion in cases of rape, incest, or when necessary to save the pregnant person’s life (Liu & Shen, 2022). Thus, if this bill, as it is written, becomes law, existing law would need to be repealed for the federal and any state government, as well as any entity that accepts or is affiliated with Medicaid to be allowed on the proposed website.

Even if government funding of Medicaid was exempt, the vast majority of reliable health care and information providers would still be excluded due to the simple likelihood of at least one individual supporting a patient’s search for an abortion at least once for a given entity. With the highly-trusted suffix, “.gov”, this website would function as a government endorsement of a

³³ As established previously, under the Hyde Amendment, federal funds cannot be used for abortions with exceptions for cases of rape, incest, or when necessary to preserve the pregnant person’s life. For more, refer back to the Bill Selection section of the Methodology chapter.

³⁴ According to the non-partisan agency that advises Congress on Medicaid, MACPAC, 85% of physicians accept new patients insured by Medicare, 70% accept those with Medicaid, and 90% accept those with private insurance (Medicaid and CHIP Payment and Access Commission, 2021, p.1). While, to the extent of my research, there has not been a substantial post-*Dobbs* study examining the percentage of doctors who support abortion access, many do. For example, the American Medical Association (O’Reilly, 2022) and the American College of Obstetricians and Gynecologists (2023) both support unrestricted abortion access.

select few healthcare providers while omitting information about others. Instead of direct regulation, the Standing with Moms Act would prevent pregnant people from finding abortion resources and funnel them, and their money, to abortion-hostile clinics.

The Providing for Life Act attempts to control information dissemination, just like the Standing with Moms Act. The bill would control colleges and universities by mandating that schools share information about resources for pregnant students with the explicit prohibition of abortion information. Educational institutions would be banned from sharing, to adults, information about a legal medical procedure, while being required to share other healthcare resources with the implication that it contains the entirety of relevant information.

Finally, the Pharmacist Conscience Protection Act focuses on controlling pharmacy management. Instead of restricting abortion directly, just like many of the other bills analyzed, the bill would prevent pharmacists from facing consequences of refusing to fill abortifacient prescriptions. The bill would essentially allow individuals (who are neither doctors nor legislators) to prevent a pregnant person to get an abortion without worry of punishment. The focus of control is on those in charge of those pharmacists; the bill would prohibit them from punishing employees for refusing to do their job and shaping patients' medical treatment for the sake of anti-abortion vigilantes.

Framing of Pregnant Person

The second question I asked was “how do the bills frame the pregnant person?” I broke this section up into three sections. The first considers gendered language, such as whether the bill

refers to pregnant “women,” not pregnant people.³⁵ The second considers morality and how the bill describes the pregnant person. This includes framing them as innocent, ignorant, or a victim (who was perhaps tricked, manipulated, or preyed on by the malicious abortionists) and not responsible for the abortion, or framing them as nurturing or motherly to suggest that abortion is the antithesis of the pregnant person’s true nature. Thirdly, I considered whether the bill’s language prioritized the fetus or the pregnant person through language choice, sentence structure, and mentioning frequency. Table 3, below, summarizes my findings.

Table 3

Bills’ Framing of Pregnant Person

Bill Name	Bill Number	Key Word	Gendered Language	Morality/ Motherliness	Priority Compared to Fetus
Late-Term Abortions	H.R. 8814/S. 4840	15 Weeks	“Woman,” not person	Innocent, nurturing victim	Fetus over pregnant person
Preventing Abortion Sanctuaries	H.R. 8501	DHHS	“Woman,” not person	Victim	Fetus over pregnant person
Standing with Moms	H.R. 8384/S. 4541	Website	“Woman,” not person	Nurturing, “survivors”	About equal
Providing for Life	S. 4868/H.R. 8851	Students	“Woman,” not person	Victim, ignorant	Pregnant person over fetus
Pharmacist Conscience Protection	H.R. 8820	Pharmacy	No mention of pregnant person	No mention of pregnant person	No mention of pregnant person

The Late-Term Abortions, Preventing Abortion Sanctuaries, Standing with Moms, and Providing for Life Acts all use gendered language to talk about the pregnant person. These bills exclude transgender people capable of pregnancy while further reinforcing the association

³⁵ For more on gendered language, see A Note on Language: Women or People.

between womanhood and motherhood. These four bills also frame the pregnant person as a victim. As I described in the previous section, the bills chose not to focus their legislative control on the pregnant person. Instead, through the regulative decisions and language, these bills treat the pregnant people seeking abortions as lacking autonomy. The punishment does not fall to the pregnant person because, from the perspective of the drafters, the manipulative entities that the bills target coerce, trick, or mislead pregnant people into getting an abortion. Since, in the eyes of the drafters, pregnant people are incapable of truly wanting to have an abortion,³⁶ it is the duty of the federal government to prevent them from coercion and trickery.

The Late-Term Abortions and Preventing Abortion Sanctuaries acts prioritized fetuses over pregnant people, suggesting that the fetus is more important than the pregnant person and that the bills' drafters hold more concern for the fetus than the (already living) pregnant person. By framing the fetus as a separate and distinct entity from the pregnant person, these bills seek to justify the restriction or elimination of abortion rights by asserting the fetal right to life. The Standing with Moms act considers them about equally, though its title suggests prioritization of mothers. The use of the word, "mom," rather than the more formal, "mother" or more inclusive, "parents" creates an emotionally-associated image while suggesting that the duties of parenthood fall solely to the "mom." As a more casual word that most Americans use to address their mother, "mom" holds a far more personal connotation and attributes those needing the proposed resources as inherently maternal. Additionally, not only does the gendered choice of "mom" exclude some pregnant people who do not view themselves as "moms," it also suggests that "moms" are the only ones who would benefit from the information and resources about raising children on the site, such as education and nutrition assistance. Men are not incapable of

³⁶ For more on this, see the "Woman-Centered" Anti-Abortion Approach section in the Literature Review.

managing childcare, yet the bill's title suggests that realm solely falls to women, implying that the labor of managing childcare is the exclusive, and perhaps mandatory, duty of women. Additionally, the Providing for Life Act focuses on the pregnant person far more than it considers the fetus.

Finally, the Pharmacist Conscience Protection Act stands out for its complete omission of the pregnant person and the fetus. The bill has no mention of the people it would impact (those refused abortions), or those that many would consider it protecting, fetuses. This omission is blatant evidence supporting the claim that the anti-abortion movement is not about protecting life, it is about inflicting control. As indicated by the text of the bill, the drafters do not care about the people refused medical care, nor do they care about the fetus. The bill solely exists to guarantee that a select few citizens can override doctor-approved medical decisions, potentially endangering and permanently changing a patient's life, simply because they want to. Ideas around control make up a substantial portion of my analysis, and I return to this theme in later sections.

Justification

The fourth question I considered was “what are the justifications for the bills?” Many bills provide an (often introductory) section where drafters summarize data or arguments to justify passage of the bill, along with the section of the Constitution that the drafters believe makes the bill constitutional. Bills often provide implicit justification as well, where the language used in the bill evokes certain emotions or images that make the bill more favorable. Table 4, below, summarizes my analysis.

Table 4

Bills' Justifications

Bill Name	Bill Number	Key Word	Justification
Late-Term Abortions	H.R. 8814/S. 4840	15 Weeks	Medical Claims, SCOTUS, Partial-Birth Abortion Ban Act of 2003, Constitution – Commerce Clause, 14 th Amendment to Constitution – Equal Protection and Due Process Clauses
Preventing Abortion Sanctuaries	H.R. 8501	DHHS	Constitution – Commerce Clause, Language describing abortion as murder
Standing with Moms	H.R. 8384/S. 4541	Website	No Justification
Providing for Life	S. 4868/H.R. 8851	Students	27.6% of abortions are performed on college-aged women, Speculation
Pharmacist Conscience Protection	H.R. 8820	Pharmacy	No Justification

The Late-Term Abortions Act relies on Constitutional interpretation and medical claims in its explicit justification. For Constitutional interpretation, specifically to claim that Congress has the authority to regulate abortion as described in the bill, the drafters cite the *Dobbs* decision. The fact that anti-abortion legislators can quote the highest court as explicitly permitting these regulations is a seemingly valid legal justification for the bill. Disputing that justification would require disputing the *Dobbs* decision, which is a task far beyond the scope of this paper.³⁷

The medical claims in the Late-Term Abortions Act act as the major justification for the bill. While the Supreme Court allows the bills' drafters to say they *can* restrict abortion, the medical claims support the drafters saying *why* they should restrict abortion. The bill begins by

³⁷ While I, and many others who advocate for legal abortion, believe the Supreme Court made the wrong decision in *Dobbs*, I am not a lawyer, and this paper is not a refutation of Supreme Court decisions.

stating that “medical and other authorities,” (with no elaboration on the “other”) know more about prenatal development “than ever before,” suggesting that medical knowledge at the time of the *Roe* decision was insufficient or wrong enough that the decision was incorrect.

The bill goes on to list several, seemingly random, fetal developments that occur prior to 13 weeks of gestation. These developments are vague (such as stating organs “start to function” or are “developing”) and consist of limb movements and organ growth. The drafters include these claims to create an image in the reader’s mind of a fetus at 12 (or fewer) weeks as just a smaller version of a living human being. The claims include oddly specific details that seem like such tiny facets of human life, such as hiccupping and having fingerprints, that seem like “last steps,” to suggest that a fetus at 12 weeks is much more developed than the reality. Furthermore, the inclusion of claims up to the gestational point of 12 weeks means that the bill omits any developments that occur later. Pregnancy lasts roughly 40 weeks, and fetuses are not generally considered viable³⁸ until at least 23 weeks (Cha & Roubein, 2021). If a 12-week fetus truly had reached the level of human development that the drafters want readers to imagine, pregnancy would not last more than three times that. Finally, the bill does not include a source for any of the medical claims.

As described earlier, the Late-Term Abortions Act advocates for a fifteen-week gestational age ban because of “substantial medical evidence” that fetuses “are capable of feeling pain” by that point. The bill includes several medical claims that various body structures that doctors know to be involved in feeling pain develop before fifteen weeks. The bill states that doctors know that fetuses react to painful stimuli (such as by needing anesthesia during surgery

³⁸ Viability is the point that a fetus could survive outside the womb. Children born very prematurely need substantial medical intervention in order to survive and are more likely to have permanent medical conditions and disabilities (Cha & Roubein, 2021).

to prevent vigorous movement) and have stress hormone responses to that stimuli. What the bill omits, however, is whether those reactions to pain actually occur before fifteen weeks. Being “capable” of something is different than it happening. Similar to the other fetal developments, the beginning of an organ’s development is not the same as its ability to function, so this part of the bill’s justification relies on assuming the two to be interchangeable. Additionally, none of the bill’s pain-related medical claims have sources more specific than “doctors have concluded, based on the evidence” either.

Additionally, the drafters of the Late-Term Abortions Act justify the bill through the argument of preventing fetal pain. Assuming all of their uncited medical claims are correct, the bill states that if doctors “apply adequate analgesia and anesthesia,” it prevents “fetal suffering.” However, this claim does not justify the legislative action in the bill. If the true intention of the bill is to prevent fetal pain, then the bill would be about mandating fetal anesthesia for all invasive procedures (including abortions), not banning abortion. If anesthesia is sufficient in avoiding fetal pain to the extent the bill suggests, an abortion with anesthesia would not cause any more pain than any other legitimate (and often necessary medical) procedure. Furthermore, the bill states that “pain receptors begin forming at 7 weeks gestational age” and that “from as early as 12 weeks” “the fetus is extremely sensitive to painful stimuli.” If the drafters’ true concern is for a fetus suffering, then the bill would cover fetuses that they think might experience pain as well.

Finally, the drafters emphasize the importance of preventing fetal pain as “subjection to painful stimuli is associated with long-term harmful neurodevelopmental effects, such as altered pain sensitivity and, possibly, emotional, behavioral, and learning disabilities later in life.” What the bill fails to consider is that, when discussing abortions, long-term effects to the fetus do not

matter. If the person undergoes a successful abortion, that fetus will never have those “disabilities later in life.”³⁹ Instead, by creating vivid images of pain with long, potentially frightening consequences, the language acts to draw on one’s emotions and picture the fetus as a living person that needs to be protected from harm.

Just like the Late-Term Abortions Act, the Preventing Abortion Sanctuaries Act relies on the Commerce Clause of Article 1, section 8 of the Constitution to justify the constitutionality of the regulations proposed in the bill. Implicitly, the bill uses aggressive language to villainize states without strict abortion restrictions. Early in the text, the bill defines abortion as “to intentionally kill the unborn child,” which it follows by stating “or” “to intentionally terminate the pregnancy” (Preventing Abortion Sanctuaries Act, 2022). There is no scenario that falls under the first category that does not fall under the second, however, the reverse is not true. The entire first line about intentional killing could be omitted with the abortion definition maintaining the same meaning. Instead, the first line functions to assert that abortion is equatable to the first-degree murder of a child; it is a horrible, violent, unnecessary crime, not a medical procedure. Very few people would advocate for providing federal funding to those supporting child murder, thus the bill attempts to justify itself through the notion that, without Congress’ passage, the federal government would be doing just that.

The only specific, falsifiable claim in the findings section of the Pregnant Students’ Rights, Accommodations, and Resources chapter⁴⁰ of the Providing for Life Act is that college-

³⁹ Additionally, the bill does not consider the potential long-term or permanent impacts of *not* undergoing a successful abortion for the pregnant person, such as the physical, mental, intellectual, and affective impact of extreme poverty.

⁴⁰ The chapter that I discuss when referring to the Providing for Life Act overall. As mentioned in the bill summary, the bill is quite long with most other sections being irrelevant to this paper. The only other relevant section is identical to the Standing with Moms Act. Thus, I discuss it separately.

aged women receive 27.6% of all abortions in the United States, according to the CDC. The rest of the findings section includes uncited, meaningless statements that rely on the word “may” to suggest that college students get abortions due to coercion, without any evidence. If the bill were to state that pregnant college students “face pressure” that they must choose between an abortion or risking “academic failure” (Providing for Life Act, 2022), then the bill would need a source, or this claim could be easily refuted by students whose lived experiences contradict it. Instead, the four uncited claims in the findings section are deliberately unfalsifiable. It is impossible to refute that pregnant students “may face pressure,” “may fear... possible negative impact,” or “may be unaware of their rights” (Providing for Life Act, 2022). The use of “may” allows the drafters to make unsubstantiated claims that villainize educational institutions while protecting themselves from the burden of proof or the potential to be wrong.

The Providing for Life Act’s findings section additionally uses vague language to further bolster these claims. The bill states that “a significant proportion of abortions... are performed on women... who may be unaware of their rights” (Providing for Life Act, 2022). The bill does not explain what that “significant” proportion is, whether that claim comes from a statistical analysis, or where the information came from. The bill also states that “an academic disparity exists” (Providing for Life Act, 2022) for those who choose to carry their pregnancy to term. There is no explanation of what that academic disparity is or where the claim came from. These claims, while vague and unsupported, contribute to the section’s overarching goal of presenting pregnant college students as ignorant, naïve, and easily coercible to justify the bill’s proposed regulations.

The Standing with Moms Act and the Pharmacist Conscience Protection Act are notable for their complete lack of explicit justification. Neither bill identifies its own constitutionality,

reasons for the bill, or any evidence to suggest the bill is worth legislating.⁴¹ Implicitly, however, both bills are rife with suggestive language. Furthermore, the Standing with Moms Act repeatedly refers to the “risks” of abortion, but not of any other medical procedure or pregnancy-related experience to construct the idea that an abortion is a particularly dangerous experience.⁴² The bill mandates that the proposed “life.gov” site would include information on complications and failures throughout a pregnancy. The bill has no mention of the risks associated with carrying a pregnancy to term or childbirth, suggesting that abortion is a uniquely risky procedure while choosing not to have an abortion is safe in comparison.

The Pharmacist Conscience Protection Act’s name alone attempts to justify the bill. The language of “conscience protection” creates the notion that our society or legal system forces pharmacists to act in immoral ways, and it is the duty of the federal government to specifically protect their conscience, their most personal moral guidance and code. It additionally suggests that the filling of an abortifacient is an unjust act to mandate a health care provider perform while ignoring the fact that pharmacists regularly are expected to fill prescriptions that they might have personal opposition to.⁴³ Furthermore, the title suggests that the bill would be protecting pharmacists from being forced to fill prescriptions for abortifacients, when, in reality, the bill protects them from the consequences of refusing to fill those prescriptions. The word “conscience” makes it sound like something incredibly personal to one’s moral structure is on

⁴¹ The only citations are the US Code’s definition for “born alive” and the location in the Public Health Service Act that the bill would be added to, for the Standing with Moms Act and the Pharmacist Conscience Protection Act, respectively. Most bills usually, at the very least, identify the part of the Constitution that gives Congress the authority to legislate whatever is proposed.

⁴² While there are certainly risks to having an abortion, as mentioned in the background chapter, a pregnant person is 14 times more likely to die from carrying a pregnancy to term than from having an abortion (Goodwin, 2022).

⁴³ For example, contraceptives, STI treatments, treatments for sexual disorders (like erectile dysfunction), antidepressants, opioids (or any drug with a potential recreational use), etc.

the line, not whether a pharmacist could be fired for refusing to do a basic element of their job requirements.

Treatment of Evidence

Another question I asked was “how does the bill treat evidence?” More specifically, what counts as evidence? Who decides what counts? How is the legitimacy of evidence decided? This was a question in which the bills were particularly lacking. See Table 5 below for a summary.

Table 5

Bills’ Treatment of Evidence

Bill Name	Bill Number	Key Word	Medical Evidence
Late-Term Abortions	H.R. 8814/S. 4840	15 Weeks	Yes, No Citation
Preventing Abortion Sanctuaries	H.R. 8501	DHHS	None
Standing with Moms Act	H.R. 8384/S. 4541	Website	None
Providing for Life	S. 4868/H.R. 8851	Students	CDC Statistic, Speculation
Pharmacist Conscience Protection	H.R. 8820	Pharmacy	None

Three of the five bills analyzed, the Preventing Abortion Sanctuaries, Standing with Moms, and Pharmacist Conscience Protect acts, included zero evidence to support the bills. The Late-Term Abortions Act included several medical claims that theoretically would support the bill’s argument, as all of the claims summatively suggest that fetuses, by a gestational age of 15 weeks, resemble a human person and are capable of experiencing pain. As described in the Justification section, these claims have no source. The Providing for Life Act is the only bill I

analyzed that includes a specific piece of evidence and provides a source. It cites the CDC in stating the percentage of abortions performed on college-aged women. In the bill overall, this claim is not very important evidence in support of the argument. Again, as described in the Justifications section, the rest of the supporting claims are vague, speculative, and again, without citations. A reader cannot determine the claims’ legitimacy without the ability to check where the claims come from. The bills’ drafters deny the reader the right to consider the evidence fully. Instead, just as the bills’ drafters consider people incapable of fully making their own medical decisions, they consider people incapable of considering and judging evidence and therefore deprive them of making those decisions and doing that research themselves.

Gendered Language of Dichotomies

As discussed in the methodology, one of the questions I asked was “do the bills include the gendered language of dichotomies?” As I explained in the A Note on Language: Women or People, the gendered language of dichotomies refers to categorization into two complete, exclusive, and opposite attributes, including and often conflated with the idea of gender consisting of two complete, exclusive, and opposite attributes (men and women). The Preventing Abortion Sanctuaries and Pharmacist Conscience Protection acts do not promote any gendered dichotomies, but the other three bills do. See Table 6, below, for a summary.

Table 6

Bills’ Dichotomies

Bill Name	Bill Number	Key Word	Dichotomies
-----------	-------------	----------	-------------

Late-Term Abortions	H.R. 8814/S. 4840	15 Weeks	Passive vs active medical decisions
Preventing Abortion Sanctuaries	H.R. 8501	DHHS	N/A
Standing with Moms Act	H.R. 8384/S. 4541	Website	Contrast between pro and anti-abortion information and services
Providing for Life	S. 4868/H.R. 8851	Students	Contrast between pro and anti-abortion information and services
Pharmacist Conscience Protection	H.R. 8820	Pharmacy	N/A

One dichotomy that stood out in my bill analysis was the contrast between passive and active medical decisions. Active medical decisions are procedures that people opt into, like abortions. Passive medical decisions would include acts like choosing to not provide medical care to others, such as choosing to not donate blood or organs. Under the argument that choosing to have an abortion is choosing to kill someone, refusing to donate organs or blood to someone who needs them and can't get them elsewhere should similarly be considered choosing to kill someone. Both decisions rely on a person giving up their bodily autonomy for the preservation of another's life. Of course, these bills do not argue for mandatory blood or organ donation, and very few people would argue in favor of forcing healthy people to undergo expensive and potentially dangerous medical procedures to save another person's life.

The anti-abortion bills, specifically the Late-Term Abortions Act, promote the gendered dichotomy of active versus passive medical decisions to create a distinction between those two choices to justify abortion bans while not transferring the same standards to other medical procedures. By phrasing an abortion as an active medical procedure, the Late-Term Abortions Act paints the picture that when a pregnant person chooses to have an abortion, they are choosing to terminate the life of their child, rather than making the medical decision to prioritize themselves. The dichotomy of active and passive decisions aligns with societal expectations of

gender: an active choice is decisive and masculine, a passive choice is yielding and feminine.⁴⁴

When a pregnant person (which, according to the drafters of the Late-Term Abortions Act, is always a woman) chooses actively to have an abortion, they choose to be decisive and masculine, and therefore directly conflict with societal gender expectations.

The information dissemination bills, the Standing with Moms and Providing for Life acts, also utilized gendered dichotomies. Both bills would mandate the inclusion of explicitly anti-abortion information with the explicit exclusion of pro-abortion information. The two do not need to be and should not be in contrast with each other. If a government-run service's goal is to provide useful medical information for pregnant people, they should not exclude medical information strictly due to whether or not the source advocates for a legal, and sometimes necessary, medical procedure. Information for people who choose to have an abortion and for those who choose to carry a pregnancy to term do not contradict each other. The bills' false dichotomy of pro-abortion and anti-abortion resources only serves to prevent pregnant people from getting the medical attention that they need and further enforces the binary mindset of passive, child-focused, feminine actions versus active, self-focused, masculine actions.

Presentation of Social Constructs as Objective Truths

Before moving on to the bills' impacts, the final question I consider is "do the bills present societal constructs as objective, universal truths?" These bills rely on the societal conflation of motherhood and womanhood. The Late-Term Abortions Act promotes the expectation and requirement of labor to prevent another's pain—society expects women to be

⁴⁴ See more on Cartesian duality in A Note on Language: Women or People

inherently passive, nurturing, motherly, and self-sacrificing. Any woman who chooses to terminate a pregnancy directly conflicts with the expectations of womanhood. Any woman who rejects the expectations of womanhood must have something wrong with her, and therefore is not following her true, innate, womanly nature. Any woman who chooses to have an abortion must not be acting with full, informed consent, because that would mean that women are not universally passive, nurturing, motherly, and self-sacrificing. Thus, in the eyes of the drafters, it is the duty of the legal system to protect these women from making a choice antithetical to their nature. These bills promote the paternalistic idea that the legal system should function so those in power can protect the subservient from making decisions against their own best interest.

Additionally, the bills' conflation of womanhood and motherhood promotes the societal construct that gender and sex are synonymous. Pregnancy is not limited to women, nor is it something that all women can experience. The drafters of these bills know about the existence of transgender people, and that there are pregnant people that are not women. The bills' drafters blatantly ignore that fact, however, and repeatedly refer to pregnant *women* to explicitly reject those who fall outside of the rigid, fixed-gender binary and reinforce the idea that womanhood *is* motherhood and motherhood *is* womanhood.

Impacts

For the final section of my analysis, I utilize the feminist legal method of consciousness raising⁴⁵ and consider how the bills would impact people. As my focus is on the rhetoric used in these bills, analysis of potential impacts may seem beyond the scope of this paper. However, it is

⁴⁵ The act of viewing the impact of a bill from the perspective of the marginalized. See my summary of feminist legal theory in the Literature Review for more information.

important to understand exactly what these bills could do if signed into law, especially when considering the language drafters use in choosing how to legislate people's bodies.

The Late-Term Abortions Act would drastically reduce pregnant people's access to health care. The bill's list of exceptions is restrictive enough that many could be forced through an incredibly painful and debilitating pregnancy, as long as it does not seem like pregnancy would cause death or permanent disability. While just under seven percent of abortions occur after 13 weeks, that still results in approximately 43,000 abortions per year (CDC, 2022). Many people who have abortions after fifteen weeks do so over medical concerns, usually issues that doctors could not identify earlier and often are not severe enough for abortion providers to risk legal action in states that only allow abortion to avoid death or permanent disability (Kaiser Family Foundation, 2019). The bill would prevent tens of thousands of patients from receiving the care they need every year. In the months since *Dobbs*, several stories emerged of patients being denied abortions until their condition became severe "enough," including one woman in Texas whose water broke 18 weeks into her pregnancy. The doctors were "100%" certain her fetus could not survive, but, because of state abortion laws, she was refused an abortion until she developed sepsis (Cohen & Bonifield, 2022). Many others only survived because they could travel to a state with less-restrictive laws.

The bill allows exceptions for cases of pregnancy resulting from rape, but mandates that the pregnant person receives counseling or medical treatment for the rape, further increasing the costs associated with an abortion and thus making it less accessible. While the cost would not be burdensome for most people with insurance, those uninsured are likely among the one-third of Americans living paycheck to paycheck (Selyukh, 2020). Any law that makes the procedure more expensive makes it prohibitive for those most in need. The bill allows exceptions for cases

of pregnancy resulting from rape or incest for minors, but mandates that the crime must have been reported to an authorized government or law enforcement agency. These requirements are a lot harder to fulfill when the perpetrator is the minor's parent or police officer, as the perpetrators usually want to avoid legal action. The bill would also put many providers at risk: doctors cannot determine the age of a fetus with exact certainty. Gestational age is an estimate based on the date of the pregnant person's last period. Many people do not consistently keep track of their menstruation and many people become pregnant while on medication that makes their period insignificant or irregular. Any patients whose pregnancies might be too close could be refused an abortion, so the provider is less likely to face civil action or jail time.

The Preventing Abortion Sanctuaries Act also has substantial consequences. Assuming compliance with the bill,⁴⁶ gestational limits would be implemented in every state. States with legal abortion would be unable to help fund abortions for those traveling from states without. The bill would make it much more difficult and expensive for pregnant people to get an abortion, again, further drastically limiting the accessibility of the procedure for people without disposable income.

The Standing with Moms Act would act as a government-approved method of funneling patients, resources, and money to anti-abortion organizations. People trust .gov websites to give them accurate and reliable information. With all the elimination of pro-abortion resources, as explained in the Focus of Control section, the adoption of the proposed "life.gov" site would look like a government endorsement of conservative Christian organizations that promote

⁴⁶ Refusing to comply would result in a state not receiving any funding from the Department of Health and Human Services. The importance of DHHS funding is described in the Bill Summary section.

incorrect or misleading information. The Providing for Life Act would do the same, except it would instead look like a university endorsement of those same resources.

Finally, the Pharmacist Conscience Protection Act would allow pharmacists to make potentially life-changing medical decisions on behalf of patients, thus practicing medicine without a license, simply because they have personal disagreements with a decision made between a doctor and a patient. All of these bills would prevent people who need abortions to get abortions. And that is exactly the impact that the bills' drafters intend.

The Viability Argument and Control

Let us return to the case that sparked this paper, *Dobbs v. Jackson Women's Health Organization*. The Court considered Mississippi's 15-week gestational age abortion ban. The Court found it constitutional and overturned *Roe*, allowing legislators at the state and national level to impose restrictions on abortions that had not been legal for nearly a half-century. While not the only means of abortion restriction that I consider in this paper, gestational age bans are certainly impactful on both how we regulate and view abortion. For example, of all the bills discussed in this paper, Sen. Lindsey Graham's Late-Term Abortions Act received the most media coverage following its proposal by a landslide.

While many, including justices of the Supreme Court, disagree on the validity of allowing abortions based on gestational age,⁴⁷ Cornell law professor Sherry Colb wrote an

⁴⁷ Many view gestational age determinations as arbitrary. The gestational age chosen is usually based on a specific fetal development that, on average, occurs at a certain point in a pregnancy. This development does not necessarily occur at the same time for all pregnancies, meaning a gestational age restriction might permit an abortion of a fetus that has passed that development while forbidding an abortion of a fetus that has not. Additionally, the fetal

opinion in advance of the *Dobbs* decision, arguing that “prior to viability, ... there is no way for the pregnant woman to defend herself against an unwanted pregnancy without also ending her embryo's or fetus's life” (2021). Eliminating the right to pre-viability abortions eliminates pregnant people’s right to protect their own bodies. Restricting access to pre-viability abortions restricts pregnant people’s ability to protect their own bodies. The analyzed bills specifically target this defense. In framing the conversation about abortion rights around fetal pain, naïve students, or pharmacists’ consciences, legislators distract from Colb’s fundamental truth: preventing a person from getting an abortion eliminates their only defense against unwanted pregnancy, forcing them to spend months sacrificing themselves for an entity without their consent. Fundamentally, the bills I analyzed work towards the exact same goal as nearly every piece of anti-abortion legislation: they try to control what other people do with their bodies.

Gendered Language

Despite the massive opportunity that the overturning of *Roe* had for anti-abortion lawmakers to severely restrict or ban the procedure, legislators have, for the most part, tried to stick to the status quo. As seen in my bill analysis, this translates to using gendered language to

development chosen is often seemingly arbitrary as well. Many legislators have advocated for a variety of gestational age bans because there is no clear and obvious development that makes a fetus “alive enough.” Furthermore, the most common gestational age ban point is that of fetal viability. The main argument against fetal viability is that the gestational age where a fetus could be viable depends on health care quality. Since *Roe* was decided, the average gestational age where a fetus could survive outside the womb decreased by about two weeks due to new health care developments. Additionally, quality of health care in urban versus rural areas means that a fetus might be considered viable in some parts of the country while not yet viable in others. Critics of the fetal viability point argue that the legality of an abortion should not depend on the quality of the pregnant person’s health care (*Dobbs v. Jackson Women’s Health Organization*, 2022).

refer to pregnant people (i.e., pregnant women). This choice is a deliberate attempt to maintain the gender binary and assert that womanhood equals motherhood.

Furthermore, the specific language of pregnant “women” rather than pregnant people reinforces the paternalistic approach that the anti-abortion lawmakers promote. If pregnancy is no longer limited to naïve, easily persuadable women who need protection, and instead now includes men, those supposedly sure-minded and worthy enough to make decisions for a pregnant person, the state can no longer claim the unique intellectual authority to impose those decisions. If pregnancy is no longer limited to inherently nurturing, selfless, subservient women, and instead now includes inherently aggressive, dominant, cold, stoic men, legislators can no longer promote an intrinsic, perhaps latent, desire for children in all capable of pregnancy. If pregnancy is no longer limited to those capable of fitting into the constructions and demands of womanhood, the state cannot control pregnancy in order to control women. Instead, by arguing that all those who are capable of pregnancy are women, the drafters maintain these constructions. Furthermore, they suggest that those in defiance are naïve, confused, or just plain wrong, further reinforcing the paternalistic idea that these poor, emotional, misled women need the state to protect them and their “true” selves. Asserting the gender binary is necessary to assert, no matter how veiled, female inferiority and the need to control those females.

States

While this paper focuses on legislation proposed at the federal level, I decided to include some context from state politics to further understand the proposed bills. Unsurprisingly, the overturning of *Roe* sparked both outrage and joy nationwide. Many states rushed to either protect

or restrict abortion in their legislation and constitutions. What came as a surprise to many, however, was the extent that the anti-abortion movement failed.

Kansas was the first state post-*Roe* to have a referendum, an amendment to the state constitution that would remove the explicit right to an abortion. As a more conservative-leaning state filled with millions of dollars of anti-abortion lobbying from the Catholic church,⁴⁸ many expected the amendment to pass. However, voters eliminated the amendment, 59% to 41% (Jenkins, 2022).

If *Roe* had been overturned twenty years ago, it is quite possible, and believable, that abortion would have been made effectively illegal. Most Americans long opposed legal abortion. Following the Court's decision, however, surprisingly little changed. While plenty of states did in fact restrict abortion, far fewer did than expected, with less extreme restrictions, and substantial opposition. As of January 2023, 24 states have abortion bans before fetal viability and 14 of those states have total or near-total abortion bans⁴⁹ (Mithani, 2023). While certainly a substantial number of states now restrict or ban the procedure, our nation's abortion laws are not what many expected when headlines wrote about a massive spike in vasectomy and IUD insertion appointments following *Dobbs* due to concerns about future abortion access (Rodriguez, 2022). Many states instead chose to protect abortion and assist those from restrictive states obtain the care they needed. Furthermore, the desire to protect abortion led many pro-

⁴⁸ The Kansas City Archdiocese spent \$2.45 million on the campaign. Additionally, the dioceses of Wichita and Salina combined spent at least \$600 thousand, various individual parishes and the Kansas Catholic Conference spent around \$100 thousand, and the conservative advocacy group, CatholicVote raised \$500 thousand for the campaign (Jenkins, 2022).

⁴⁹ One state, Georgia, has a six-week gestational age ban, which is considered a "near-total" abortion ban. As gestational age is measured from the end of a person's last period, which is, on average, two weeks prior to conception, it is quite common for people to not know they are pregnant before six weeks.

abortion Americans to vote on election day, leading to a far more successful midterms for the Democratic party than expected.

Popular opinion has shifted, forcing anti-abortion conservatives to change tactics and attack different areas of abortion rights. Far more Americans are supportive of abortion now than ever before. Thus, the bills I analyzed were less restrictive than they could have been. No one in Congress introduced a complete abortion ban, or even an abortion ban more explicitly restrictive than the Mississippi law that led to *Roe*'s overturning. However, despite a substantial change in an incredibly controversial law, little changed in anti-abortion rhetoric. Not only are the five analyzed bills a hodgepodge of anti-abortion arguments from the past fifty years, but the bills also rely on (and enforce) veiled constructions of gender essentialism that have developed over the past 10,000 years. The legal status of abortion in much of the country has changed, but the language used to control bodies remains.

Conclusion

The bills I analyzed incorporate the idea of paternalism and the conflation of womanhood and motherhood that I traced from the dawn of agriculture to the present day. Although the language used in these bills has evolved over time, the underlying assumptions remain the same. None of the bills described women with careers as “mental hermaphrodites,” urged that women must have children, or mandated husband’s consent to have an abortion. In fact, none of the bills went further than *suggesting* that people should not have abortions. None of the bills state why the drafters are against abortion, nor do they explicitly state that they *are* against abortion. Instead, the rhetoric is far more nuanced. The least abstract example would be the bills’ names; it is easy to support a bill titled “Standing with Moms Act” because who is going to say they are anti-mom? This strategy allows them to advance their agenda while simultaneously reinforcing traditional gender roles and deflecting criticism. In short, the bills use language and rhetoric to reinforce societal expectations of women and mothers, while building a defense against opposition.

Many of the bills rely on legal choices designed to mislead. As I noted throughout the Bill Analysis chapter, the substantive, legislative parts of the bills were often squeezed into definitions sections or surrounded by emotional, often-unrelated descriptions. It is easier to justify omitting information under the excuse of protection. It is easier to restrict freedoms under the excuse of preventing pain. It is substantially easier to eliminate a person’s rights when it is done calmly and gradually, without drawing attention to the true intentions of the bill's drafters. Furthermore, the use of legal language and obscure references in these bills can also make it difficult for the general public to fully understand their implications. This lack of transparency and accessibility in legislative language can have far-reaching consequences, as it can allow

controversial and potentially harmful bills to pass unnoticed by those who would otherwise oppose them.

I do not think a full federal abortion ban is likely in the near future. What I do think, however, is that those in Congress who wish to degrade the right to bodily autonomy will continue to attempt to do so, and they will continue to uphold the same ideas of gender essentialism and paternalism in their future work. While this language has not undergone a substantial shift, this continuation of rhetoric provides a framework for the future of abortion legislation. Future legislation will likely mimic the ones I analyzed in this paper. As of March, 2023, some of the bills have already been reintroduced in the 118th Congress. While it is impossible to know the specifics, future legislation will likely continue to strip pregnant people of their rights under the guise of protection, through the restrictive regulation of those working to protect them.

Appendices

Appendix A – Bill Analysis Questions and Themes

1. What are the specific things the bill is trying to control? Is it:
 - a. Gestational age limits?
 - b. States, specifically ones with more liberal policies towards abortion?
 - c. Federal funding and resources?
2. How do the bills frame the pregnant person?
 - a. Does the rhetoric align with the anti-abortion movement’s “woman-centered” approach? The “fetus-centered” approach? A combination of both? Neither?
 - b. Is the pregnant person described as a victim? As a criminal? Something else?
 - c. Is the language gender-inclusive? Do the bills consider or mention non-cisgender women? Do the bills define who they intend to regulate?
 - d. How does the other language used shape how the pregnant person is framed?
 - i. i.e., passive versus active voice
3. What are the justifications for the bills?
 - a. Does the rhetoric align with the “woman-centered” approach? The “fetus-centered” approach? A combination of both? Neither?
 - b. Is the bill based in law? In medicine? In religion?
 - c. Does the bill even include justifications?
4. Are there patterns between bills?

- a. *The question of patterns or similarities across the bills is not grounded in a specific theme but rather in the analysis of legislation beyond the scope of individual bills.*
 - b. Party affiliation of bills' sponsors and co-sponsors?
 - c. Geography similarities among the states/districts the bills' sponsors and co-sponsors represent?
 - i. Physical proximity? Economic similarity? Religious similarity?
 - d. Gender of sponsors and co-sponsors?
5. Taking from a postmodernist/poststructural approach, does the bill:
- a. Present socially constructed beliefs as truth?
 - b. Legitimize existing structures of dominance?
 - c. Present law as neutral, rational discourse? As universal and inevitable?
 - i. Is the idea of "law" being used as a justification for regulation and control? That presented actions are passive, done by the abstract, neutral, universal, inevitable force that is the law, as opposed to people?
 - d. Suggest "essential" gender differences?
6. Do the bills include the gendered language of dichotomies?
- a. Are arguments framed as binary? Focused on oppositions and conflict?
7. Considering the legal method of consciousness raising:
- a. How will the text of the law impact people? What are the specific impacts?
 - i. Consider the perspectives of those being regulated.
8. Considering the legal method of organizing the apprehension of truth:

- a. What counts as evidence? Who decides what counts? How is the legitimacy of evidence decided?
- b. While not specific to *feminist* legal theory, it is another legal method that I chose to implement to further understand the bills.

Appendix B – List of Court Cases and Bills Cited

Akron v. Akron Center for Reproductive Health, 462 U.S. (1983).

Dobbs v. Jackson Women’s Health Organization, 597 U.S. (2022).

Roe v. Wade, 410 U.S. (1973).

S.4840 - 117th Congress (2021-2022): Protecting Pain-Capable Unborn Children from Late-Term Abortions Act. (2022, September 13). <https://www.congress.gov/bill/117th-congress/senate-bill/4840>

H.R.8501 - 117th Congress (2021-2022): Preventing Abortion Sanctuaries Act. (2022, July 26). <https://www.congress.gov/bill/117th-congress/house-bill/8501>

S.4541 - 117th Congress (2021-2022): Standing with Moms Act. (2022, July 14). <https://www.congress.gov/bill/117th-congress/senate-bill/4541>

S.4868 - 117th Congress (2021-2022): Providing for Life Act. (2022, September 15). <https://www.congress.gov/bill/117th-congress/senate-bill/4868>

H.R.8820 - 117th Congress (2021-2022): Pharmacist Conscience Protection Act. (2022, September 15). <https://www.congress.gov/bill/117th-congress/house-bill/8820>

Appendix C – Analysis Notes

Notes taken during bill analysis.

1. Protecting Pain-Capable Unborn Children from Late-Term Abortions Act ([H.R. 8814/S. 4840](#))

- Sponsored by Sen. Lindsey Graham (R-SC) & Rep. Smith (R-NJ) 9/13/22
- Co-sponsors
 - Sens. Steve Daines (R-MT), Marco Rubio (R-FL), Kevin Cramer (R-ND), John Thune (R-SD), John Hoeven (R-ND), Cindy Hyde-Smith (R-MS), Bill Hagerty (R-TN), Roger Marshall (R-KS), Josh Hawley (R-MO)
 - 100 GOP Reps. (~13 women)
- Defining human life by pain? What about capital punishment?
- Sec. 2. (1)
 - Begins with setting up the conflict dichotomy
 - Providing the background for the “fetus” side of the argument
 - Mention of external genitalia – subtly pointing to importance of gender differences
 - Fetus now is a “he” or a “she” – at the point where people refer to the fetus in gendered pronouns (which we usually reserve for people/animals and implies a familiarity since you presumably have to know something about the being in order to get it right) instead of non-gendered pronouns that either refer to objects or the unfamiliar
 - Having sex organs is a major aspect of a developed human, instrumental in identity and societal expectations, as well as considered to be a definite, neutral, binary, non-political, scientific fact that supports the “essential” gender differences
 - Does not mention that the external genitalia can’t be identified yet (and potentially indistinguishable between fetuses that will develop into different sexes)
 - What about the intersex?
 - Deliberately vague to allow extrapolation without making false or leading claims
 - Focusing on development without mention of lack of development
 - Pregnancy lasts ~40 weeks and clearly more has to happen after the 12 week point or else a fetus 12 weeks from gestation would be viable
 - At 12 weeks, for example, the fetus is 6cm long, about 18g, and still only halfway to the point of potential survivability if born
 - Mentions organs starting to function; starting to function \neq function
 - Focus on gestational age

- Does not mention that gestational age is based on the date of the last period (not conception)
- Concedes the variations in gestational points
 - i.e. a certain development point will happen in a range of time (it's not guaranteed to be at __ weeks)
 - If the gestational age for a certain development is not static, does that mean that the law needs to accommodate for that?
 - If a fetus is, say, a week behind in development for the listed developments (or these developments are undetected), does that mean it would classify differently in the eyes of the law? Or is a law citing a specific point in gestation based on generalizations and therefore might be contradicting its own reasoning in some cases.
 - Would a fetus that doesn't develop all of the regular things at the regular pace be allowed to be aborted later?
- (H) Presentation of law as indisputable and neutral fact
 - SCOTUS determined it's taken on "the human form" but SCOTUS aren't obstetricians
 - Precedent of outside entities determine pregnancy?
- What does it mean for "an unborn child" to have "taken on 'the human form' in all relevant aspects"?
 - What is "the human form"?
 - Does this consideration of "human form" include the differently abled?
 - Look at *Gonzales v. Carhart*
 - Examples preceding (H) mainly list organ function and limb movement – things that are not universally true nor necessary for life
 - Would a fetus without arms not be considered to take "the human form"?
 - It seems to refer to the presence of all organs and limbs
 - Do we have criteria as to whether or not something has "taken on 'the human form'"? Are
 - Pregnant body as a human form?
 - Does something taking "the human form" mean it is "alive"?
 - What are the relevant aspects? Who decided which aspects are relevant?
 - Why is having "taken on 'the human form'" relevant?
 - Does abortion "not count" if it doesn't look like a human yet?
 - Does abortion "not count" if the fetus will never look like a human?
 - If abortion is murder, why would the line we draw determining if it's murder be based on being shaped like a person and having all of the organs? We don't define adulthood off of the start of puberty.
- Sec. 2. (2) – Sec. 2. (12)
 - Further development of conflict dichotomy

- Illustration of feelings of pain in fetus
 - Used to invoke sympathy and feelings of responsibility
 - No mention of the pregnant person's pain due to pregnancy
 - Presentation of medical claims as fact
 - At this point in the bill, there has been one citation, (Gonzales v. Carhart)
 - Capability of pain as the basis for defining life? As the basis for deciding if abortion is permissible?
 - Expectation of labor (or requirement of labor) to prevent another's pain
 - False dichotomy of passive and active medical decisions
 - We don't mandate blood/organ donation, even if you are the only person capable of doing so, and the recipient is your child who would otherwise die or face serious agony without donation
 - Perception that choosing (active) to have an abortion is different than choosing (passive) to not provide lifesaving medical care
 - Active medical decisions – masculine – unacceptable for a woman to make an active medical decision to prioritize self – it's in contradiction with the inherent qualities of motherhood for a mother to actively prioritize self at the cost of others
- Sec. 2 (13)
 - Vague language
 - “substantial medical evidence”
 - “capable” \neq does
 - “at least”
 - “if not earlier”
 - Lack of evidence/citation
 - Daubert – for judiciary, but worth looking into how scientific evidence is supposed to be used in lawmaking
 - “unborn child”
 - Could write a whole paper on the language of an “unborn child”
 - Significance of pain
- Sec. 2 (14)
 - Vague language without citation
 - “significant physical and psychological risks”
 - “Increase with gestational age”
 - Woman, not person
 - Implication that due to physical and psychological risk of a later abortion, logical conclusion is to ban those abortions
 - Ignores the physical & psychological risks of pregnancy/birth
 - Framed as concerned about the pregnant person
 - (repeated) Use of scientific language
 - Ex: “gestational age”
 - Helps frame the bill as on the side of “science” and the objective truth
 - Avoiding emotional or less-accepted language for the sense of legitimacy
 - Mention of fetal pain came BEFORE mention of maternal risks
- Sec. 2 (15)
 - gory, descriptive language to imply pain and violence

- surgical instruments -> return to medical imagery
 - supposed to be tools to help people
 - described violence sounds incompatible with benevolent, “do no harm” doctors
- “dead child”
 - When is it “a child”?
 - Is a fertilized egg a child?
- “womb” (as opposed to uterus)
 - Associated with mothering, nurturing, providing for growth
- Sec. 2 (16)
 - Again, returning to the mother after the fetus
 - Prioritization of the fetus over the mother
 - Inclusion of the mother to provide the “woman-centered” and arguably rational approach
 - No mention of frequency of complications, association with other conditions, or comparison of complications from giving birth
 - Many of these seem likely to result directly from the procedure whereas others (especially psychological) seem more likely to result from another of other issues
- Sec. 2 (17)
 - Return to “rational” “objective” “scientific” argument that the procedure is incompatible with the duties of a medical professional
 - “undermines public’s perception of the appropriate role of a physician”
 - Since when do we base laws off of what the public deems appropriate?
 - Furthermore, under this logic, shouldn’t a federal restriction on abortion like this be illegitimate because it contradicts public opinion?
 - Again, “child”
- Sec. 2 (18)
 - Banning abortions after 15 weeks \neq not giving “unfettered choice”
 - How are abortion doctors elevated above other physicians?
 - “any more than it does in other contexts” \neq in general
 - Lack of certainty should not be used to justify legal action
 - Abortion bans should not be considered a legitimate exercise of legislative power simply because we don’t know some of the medical claims for a fact
- Sec. 2 (19)
 - NA
- Sec. 2 (20)
 - Repeat of earlier trends
 - “entitled to a ‘strong presumption of validity’”
 - So many “health and welfare laws” could be justified this way
- Sec. 2 (21)
 - “purpose of Congress”
 - Refer back to constitution

- “protecting the lives of unborn children”
 - Fetus-centered approach
 - When does life begin?
- “substantial medical evidence”
 - What evidence? What counts as substantial? Who are you citing?
- “capable of feeling pain”
 - Pregnant person also feels pain
 - Is it the duty of Congress to protect all living people from feeling pain?
 - Should we ban war? Should we guarantee all children food and housing? Should we ban spankings and jungle gyms? What about other things that cause pain? What about lifesaving medical procedures? Many of them cause pain but we still consider them worth it? Orthodontia is painful and usually doesn’t prevent much pain either.
 - Why do we only care about protecting their “lives” while capable of feeling pain?
 - If you put someone on enough anesthetics, does that make killing them ethical/not worthy of congressional protection?
 - If the whole point of banning abortions after 15 weeks is because the fetuses (might) be capable of feeling pain, would injecting them with substantial anesthetics be sufficient for allowing the abortion?
- Sec. 2 (22)
 - (A) look at Commerce Clause sec. 8 article I of Constitution
 - (B) look at Equal Protection & Due Process Clauses sec. 1 & Enforcement Clause sec. 5 14th Amendment to Constitution
- Sec. 3. (b) (1)
 - “Probable gestational age”
 - Dependent on physician, impossible to be uniformly enforced
- Sec. 3. (b) (2)
 - (B) (i)
 - “necessary to save life”
 - So the pregnant person might have to suffer an excruciating amount of pain, debilitating conditions, and possibly death because the doctor didn’t determine it absolutely necessary to perform an abortion to save their life, because doing so might cause pain to the fetus?
 - Why exclusion of psychological or emotional conditions?
 - Psychological & emotional conditions were included in the list of conditions that result from abortions
 - How are they both legitimate reason to ban an abortion but not to allow one?
 - (B) (ii)
 - What makes rape special?
 - Do fetuses conceived due to rape not feel pain? Does congress not have an interest in preventing pain among those conceived from

- rape? Are children conceived from rape not subject to the same legal protections?
- “adult woman”
 - What about pregnant people who aren’t women?
 - Are they not allowed to have an abortion?
 - What is defined as a woman?
 - 48 hours
 - Why 48 hours?
 - What if the 48 hours brings the person over the 15 week rule?
 - Counseling/medical treatment?
 - Why? Will this eliminate the fetal pain? Will this eliminate the potential medical complications for the person receiving the abortion?
- (B) (iii)
 - Why must it be reported?
 - What about the ___ % of rapes not reported?
 - Minors that are victims of rape/incest often are not in the situation where they feel comfortable/safe involving law enforcement for an investigation
 - (C)
 - Shift of concern from minimizing pain to survival
 - Wouldn’t a fast abortion instead of trying to extend the life of a lethally premature infant cause it more pain?
 - Return to underlying fetus-centered approach
 - What about the risks for the pregnant person?
 - (D)
 - Requires additional training or additional physician
 - Drives up cost of procedure, making it more inaccessible to those needing it the most
 - (E)
 - Consequences for violations?
 - (F)
 - No major objections but this amount of documentation/bureaucracy could be a major hurdle to get through
 - Seems contradictory to “small government” ideals
 - Could a patient/doctor be punished if some part of the documentation system screws up and a patient gets a legal abortion but they don’t have records of all the paperwork used to certify it?
 - (G) (i)
 - Are minors allowed to sign the informed consent form? They aren’t usually
 - (G) (ii) (III)
 - Significant risk
 - ****new words**** (didn’t describe risk level before)
 - Moderate risk is worth it if it increases the chance of survival from like 0% to 3%?

- (G) (ii) (V)
 - Nod to “woman-centered” approach
 - It’s okay that we have all these restrictions bc the pregnant person can take civil actions if the requirements for physicians aren’t provided
 - Does this mean that if a woman obtained an abortion illegally but made it seem legal (like lying about the date of her last period) she could sue the doctor for providing that abortion?
- (G) (iii)
 - Requirement of a witness?
 - Do other medical procedures informed consent tend to require a witness? (I don’t think so...)
- (I) (i)
 - Elaborates on the level of risk: must go with method of abortion that is most likely to result in a live birth unless it would pose a greater risk of death or substantial & irreversible physical impairment of a major bodily function
 - So many things are incredibly painful & life altering that aren’t in those categories
- (I) (ii)
 - Doesn’t allow required counseling or medical treatment from clinics (ex: planned parenthood)
 - Makes it substantially harder & more expensive for fulfilling requirements
- Sec. 3. (d)
 - Return to “woman-centered” approach, can’t prosecute the person getting the abortion
- Sec. 3 (e) Civil Remedies (1)
 - Return to “woman-centered” approach, protections for those who are victims of the abortion industry
- Sec. 3. (e) Civil Remedies (2) Civil Action by a Parent of a Minor on Whom an Abortion is Performed
 - A parent of a minor upon whom an abortion has been performed or attempted under an exception provided for in subsection (b)(2)(B), and that was performed in violation of any provision of this section may, in a civil action against any person who committed the violation obtain appropriate relief, unless the pregnancy resulted from the plaintiff’s criminal conduct.
 - This (might) mean that a parent can sue an abortion provider for giving their child an abortion, even if the pregnancy resulted from rape or incest or was dangerous to the life of the pregnant child, as long as the child isn’t pregnant because of the parent
 - Would have to look into how a married couple is viewed in the eyes of the law, but if like a woman’s boyfriend raped their daughter, or someone was raped by their uncle, etc. the parent could sue the doctor for providing the abortion

- Confused about the “and was performed in violation...” I think it means that the parent can sue on behalf of the child in the way that the patient could sue if the doctor violates a different part of the law
 - Like if the doctor doesn’t choose the method most likely to result in a live birth, even if the newborn would be unlikely to survive and it would be incredibly debilitating (but not guaranteed to be permanently so or deadly), for the child receiving the abortion, the parent could sue the doctor as long as that parent didn’t cause the pregnancy
- Sec. 3. (f) Data Collection
 - Need to look at current National Center for Health Statistics for further understanding
 - If all medical procedures are tracked, then this seems reasonable.
- Sec. 3. (g) (1)
 - Allows more strict rules
- Sec. 3. (g) (2)
 - Supports more-strict anti-abortion laws while choosing a more moderate approach as a more likely to pass stepping stone
- Sec. 3. (h) Definitions
 - Most notable one is (15) Woman
 - What does it mean to be a “female human being”? vague. Does it include trans people? What about people capable of pregnancy?

2. Preventing Abortion Sanctuaries Act ([H.R. 8501](#))

- Sponsored by Rep. Lamborn (R-CO) 7/26/22
- No DHHS funds for any state that has an abortion fund, doesn’t have gestational restrictions, or prohibits the enforcement of another state’s law allowing civil action to be taken against people who receive, perform, or aid an abortion (or attempt any of those)
- Sec. 2. (a)
 - Commerce Clause of Article 1, sec 8 of Constitution
- Sec. 2. (d) (1)
 - Doesn’t allow for abortion of fetus that isn’t capable of surviving but isn’t “dead” yet
 - Language of “unborn child”
 - Language of “woman”
 - (B)
 - Specifically lists exceptions, not what isn’t allowed (more strict, less wiggle-room or legality for cases that follow the spirit but not letter of law)
- Sec. 2. (d) (2) (C)
 - Forced subservience to other states’ laws
 - Look into how that works (bc it violates states’ rights)
- Sec. 2. (d) (3)
 - Just refers to out-of-staters, so state could provide support to own residents
- Sec. 2. (d) (4)

- Vague definition of “unborn child”
 - Sounds like it would include an unfertilized egg
- Use of “womb”
 - (see notes from S. 4840)

3. Standing with Moms Act ([H.R. 8384](#) / [S. 4541](#))

- Sponsored by Sen. Rubio (R-FL) & Rep. Mace (R-SC) 7/14/22
- Essentially a response to the George Carlin bit about how Republicans are pro-life until you’re born and then they don’t care about you
- Possibly the most evil bill here
- Title
 - Gender-specific
 - Ignores impact on others
 - Ignores pregnant people that aren’t women
 - “Moms” as opposed to “people”/“women”
 - Declaring the occupation/noun as a “mom” for pregnant people
 - Implication that one becomes a mother once one is pregnant
 - And therefore the connotations of nurturing/mothering/caring/filled with the intrinsic love and concern for the fetus
 - Nouns to describe people (instead of adjectives)
 - It’s not just a word describing them as a person (adjective); it is the entity that they are (noun) & their concrete, ultimate identity that other elements of their being build around
- Sec. 3 (a) (1)
 - Website is “life.gov”
 - Fetus-centered, underlying approach isn’t about providing healthcare, it’s about “preserving fetal life” etc.
 - Begins with “woman-centered” approach
 - Hard to argue against (1)
 - Framed in a logical, rational, objective, health-care motivated approach
 - Does not include (by name) abortion
- Sec. 3 (a) (2)
 - What are the alternatives to abortion?
 - Specific language of “alternatives”
 - Suggests that the specific focus is to take those considering abortion and persuade them into something else
 - In contrast to “comprehensive information on adoption, welfare for impoverished expecting mothers, etc.”
- Sec. 3 (a) (3)
 - What about risks of pregnancy & childbirth?
 - Deliberately fear-inducing
- Sec. 3 (a) (4)
 - “fetus-centered” approach

- “child” development (as opposed to fetus)
 - Creating image of living entity
 - Selecting information to create the idea of a person that would be “killed” by the abortion, rather than the abstract idea of a few cells
- “moment of conception”
 - Supports public misconception that there is a specific moment of conception (it’s more complicated & gradual of a process than implied)
 - Suggests a specific point that makes it “alive” rather than something fuzzy & inexact
- Sec. 3 (b)
 - Sounds like a way to collect data about people
 - Does not specify whether or not abortion services would be included
 - Repeat of abortion risks but no mention of pregnancy or childbirth risks
- Sec. 3 (c)
 - Repeat of “woman-centered” approach with implication that the bill is primarily designed to aid health care access
 - “abortion pill reversal”
 - Notion that those seeking an abortion are unable to confidently make permanent decisions about their own bodies – need to be protected by those smarter than them that will provide them the reversal pill
 - That seeking an abortion is a mistake and when the patient comes to their senses, they’ll change their mind
 - That regretting an abortion so soon after taking the first pill is so common that it’s something that reversal is something people seek often enough to get included in a list of “health and well-being services” along with generic medical care
 - Undermines the decision of those to get an abortion since there is a pill reversal
 - Could create false hope for those who weren’t too sure about their decision but think they can get it reversed if they change their mind (though the reversal doesn’t always work)
 - Could create the idea that those seeking an abortion aren’t sure enough about their own bodies to do so if there wasn’t the ability to reverse it
 - Look into science that says bs
 - Does not include abortion
 - “healing and support services for abortion survivors and their families”
 - Those receiving the abortion or people that were almost/attempted to have been aborted?
 - Suggestion that those who have abortions are “survivors” who need “healing and support”
 - That having an abortion is an incredibly damaging process and should be provided support that is described the way we describe support for those with cancer
- Sec. 3 (h)
 - What are resources offered by a prohibited entity?

- Sec. 3 (k) (3)
 - Any entity that is associated with performing, inducing, referring for, counselling in favor of, or providing financial support to any other organization that conducts abortions is a “prohibited entity”
 - This is a major part of the bill’s function but it’s hidden in the definitions section
 - Intentionally makes it seem like the bill is less anti-abortion than it is
 - Essentially saying that the website will provide resources that are explicitly pro-life, leading far more people to pro-life resources under the guise of providing health-care information
 - Essentially the digital version of “pregnancy crisis centers” that make it seem like abortion providers that instead will try to convince you to not have an abortion
 - Using government resources/funds to funnel people to pro-life organizations
 - Given the number of medical professionals that are in some way in favor of abortion and the number of organizations that arguably support abortion, very few resources would be left. They would likely be primarily funded by conservative Christian groups
 - Thus, using government resources, funding, and reliable branding of a “.gov” site to benefit conservative Christian organizations
- Sec. 3 (k)
 - Other definitions are fairly similar to other bills here
 - Def of Abortion is the same
 - Def of unborn child:
 - Includes mention of fertilization (so doesn’t apply to eggs, unlike other bill)
 - “until the point of being born alive” so a stillborn child is considered an “unborn child”?

4. Providing for Life Act ([S. 4868](#) / [H.R. 8851](#))

- Sponsored by Sen. Rubio (R-FL) & Rep. Hinson (R-IA) 9/15/22
- “to provide support and assistance to unborn children, pregnant women, parents, and families”
- Abortion-related sections are hidden deep into the bill
 - First long chunk of bill is incredibly confusing, long, legal-ese about taxes, etc
 - Bill provides a lot of findings & includes restrictions on abortion, but doesn’t actually try to claim something about abortion being bad, just imply & limit it
 - Seems like the bill was probably meant to be a large package (similar to how the Inflation Reduction Act of 2022 included a wide variety of things like hiring more IRS agents and giving homeowners rebates for installing insulation).
- Sec. 3
 - Modifies Internal Revenue Code of 1986 to include an unborn child of an eligible taxpayer for the child tax credit if child is born alive and has a social security number listed
- Sec. 3 (3)

- Eligible taxpayer is mother of child carried in the womb & is biological mother of child or initiated pregnancy with intention of bearing & retaining custody of & parental rights to such child OR (in the case of joint return) is the husband of the aforementioned mother
 - Gender-specific/exclusive language
 - Not only ignores trans people, also ignores non-heterosexual couples
 - Doesn't require biological relation for husband
- Unborn child definition
 - Includes implication of definite point of fertilization
 - Accounts for either "being born alive or death"
- Sec. 4
 - (A)
 - Individuals can't get deductions for (1) state & local, & foreign, real property taxes, (2) State & local personal property taxes, (3) state & local, & foreign, income, war profits, and excess profits taxes, (4) state & local, & foreign taxes associated w/ carrying on a trade or business BUT actually allowing deduction for foreign income, war profits, & excess profits taxes and also stuff in (1) & (2) associated w/ carrying on a trade or business
 - Soooo allows fewer deductions for individuals?
- Sec. 5
 - Confusing & probably not relevant
- Sec. 6
 - Parental leave benefits in social security act
- Sec. 7
 - MARCO RUBIO (or the think-tank that wrote the bill for him) MADE A TYPO
 - It's supposed to be subsection (l) (lower case L) not subsection (1)
 - I'm going insane
 - Basically reduces states' control
- Sec. 8
 - Confusing & probably not relevant
- Sec. 9
 - Requiring biological fathers to pay child support for medical expenses incurred during pregnancy & delivery
- Sec. 10 – Pregnant Students' Rights, Accommodations, & Resources
 - (a) Findings
 - (1)
 - "female"
 - Suggestion of people being pressured into abortion
 - (3)
 - "significant proportion"
 - Vague
 - Lack of citation
 - "women"
 - Though here it's not really incorrect
 - "are performed on"
 - Passive voice

- Others are performing the abortion on them, they're not agents
 - Subject of the sentence is the abortions, not the people receiving or providing them
 - “abortions” hold the true power in the sentence
 - Phrasing alludes to “woman-centered” approach’s idea that women are victims of the abortion industry
 - “unaware of their rights”
 - Women don’t know things relevant to them & need someone to inform them
 - Saying that the reason college students get abortions is because they don’t know that it would be illegal to discriminate against them for being pregnant
 - People don’t get abortions because they’re afraid of discrimination, they get abortions because they don’t want to be pregnant/have a child
 - Even if it was to avoid discrimination, legality wouldn’t change much
 - Hard to prove & most discrimination is not very clear or objective
 - “deprived of an alternative to receiving an abortion”
 - Passive voice
 - They are not the ones in control of their own reproductive system
 - It is the failure of another entity (doctor perhaps) that they had an abortion
- (5)
 - “an academic disparity exists”
 - Vague
 - Interesting wording – lack of agency/fault
 - Describing a problem without specifying who/what is at fault
 - Seems illogical to blame on federal government rather than academic institutions
 - “who carry their unborn babies to term”
 - Interesting wording
 - Phrasing, along with “who do not wish to receive an abortion” makes it seem like choosing to get an abortion is the norm, and not opting in to something, while choosing to not is a decision to be made & less common
 - Implication that more thought is put into *not* getting an abortion
- (b)
 - (n) (1) (A) (i)

- Why can't students learn about their rights & resources for abortion services?
 - Sudden shift to gender-inclusive language
 - Refers to a single student as "they"
- Sec. 11
 - Sec.514 (b) (7) – prohibits proposed “community-based maternal mentoring programs” from having mentors refer or counsel in favor of abortions
 - (c) (3) (h)
 - Same “prohibited entity” bs as other Rubio bill
- Sec. 13 – same as other Rubio bill – Standing With Moms Act (the life.gov one)
- Sec. 15 Pregnancy Resource Centers
 - HHS grants & other assistance to “pregnancy resource centers”
 - Specifically excluding “entities that perform, prescribe, refer for or encourage abortion or entities that affiliate with any entity that performs, prescribes, refers for, or encourages abortion”

5. Pharmacist Conscience Protection Act ([H.R. 8820](#))

- Sponsored by Rep. Carter (R-GA) 9/14/22
- Referred to Committee on Energy and Commerce
 - Not sure why there but... (obviously the commerce side)
- “To amend the Public Health Service Act to prohibit governmental discrimination against certain health care providers with certain objections to abortion.”
- Sec 1.
 - The bill is supposed to protect the conscience of pharmacists
 - What does it mean to protect someone's conscience
 - Is it protecting their conscience or is it protecting them from the consequences of them choosing to protect their conscience
- Sec 2.
 - Can't seem to find the section that this would be added to
 - Presumably requires pharmacists to fill prescriptions
 - Anything receiving fed money can't penalize/treat adversely/retaliate against/otherwise discriminate/take action that has such effect (so includes firing or any other type of punishment an employer can implement) against a “specified health care provider” (pharmacists, presumably) on basis that they do not or declines to store or fill a prescription, or make a referral, (so, the job of a pharmacist) for a drug approved by the FDA to cause an abortion or that they “in good faith” believe “may be used to cause an abortion”
 - Essentially makes anti-abortion pharmacists a protected class
 - Makes it illegal to fire/punish an employee for refusing to do their job
 - Allows pharmacists to essentially practice medicine
 - They're overriding the FDA (who approved the drug) and the doctor (who prescribed the drug) to make decisions about the patient's medical wellbeing
 - Doesn't say a drug that is prescribed as an abortifacient

- Allows pharmacists to refuse to fill prescriptions that are for other things (sometimes essential for managing serious conditions)
 - Even if it is for an abortion, they might be getting the abortion because they cannot safely & healthily carry the fetus to term
 - Ignores the usual exceptions for things like incest & rape
 - The pharmacist doesn't know, and doesn't need to know
- Allows pharmacists to refuse to fill prescriptions that they “in good faith [believe] may” be used to cause an abortion
 - Even if the drug is not approved as an abortifacient and not prescribed as an abortifacient
 - Pharmacist would be claiming that they know more about the drug and its intended use than the FDA & doctor
 - Language of good faith and belief
 - Emotional, not based in science or evidence,
- No mention of patient (the person affected)
 - Ignores the person being impacted by this “protection”
 - Ignores the consequences of a pharmacist refusing to fill a prescription
 - Doctors usually prescribe drugs for a reason, and system is designed to deliberately be libertarian & decentralized for a reason
 - Yes, they need FDA approval but after that & one doctor has written the prescription, the only thing stopping you from obtaining your prescription is cost & your ability to get to a pharmacy that has it in stock
 - Doctors don't need a second doctor to approve the prescription, let alone another health care provider who isn't a doctor
 - Also no mention of the fetus
 - ~moral/conscience stuff aligns with “fetus-centered” approach's language
 - Fixation on the health care provider aligns more with the “woman-centered” approach's focus on health care providers
 - Allows pharmacists a way to opt-out of “the evil abortion industry” without consequences
 - i.e. abortion doesn't belong in medicine so I won't let it
- What about other drugs that people's conscience might object to?
 - Treatment for AIDS? Birth control? Viagra?
- (c) definitions
 - (1) specified health care provider

- Pharmacist, pharmacy technician, pharmacy (so the entire business), owner of pharmacy
 - So the owner of Walgreens could declare a moral opposition to abortion and ban the filling of abortifacients at all Walgreens owned pharmacies
 - Walgreens owns ~1/3 of pharmacies
- “an objection to any abortion or all abortions on moral, religious, conscience, or medical judgement grounds”
 - First three make sense with the bill
 - Fourth (medical judgement) means that the pharmacist has personal objections because of an argument about medical judgement that they will use to override a doctor & the FDA, and they cannot be punished for doing so
 - So, they’re practicing medicine
- (d)
 - State/fed laws could be “equally or more protective of conscience or religious freedom”
- Again, never actually elaborates on what conscience means here or how this is protecting/preserving it

References

- American College of Obstetricians and Gynecologists. (2023). *Abortion is healthcare*. ACOG. Retrieved March 22, 2023, from <https://www.acog.org/advocacy/facts-are-important/abortion-is-healthcare>
- American Medical Association. (2022, November 16). *AMA announces new adopted policies related to Reproductive Health Care*. American Medical Association. Retrieved February 21, 2023, from <https://www.ama-assn.org/press-center/press-releases/ama-announces-new-adopted-policies-related-reproductive-health-care>
- Bauer, G. L. (2001). *Doing Things Right*. Word Publishing.
- Beauvoir, S. de. (1974). *The Second sex*. A Division of Random House.
- Boylan, J. F. (2021, October 10). *Abortion rights and trans rights are two sides of the same coin*. The New York Times. Retrieved February 15, 2023, from <https://www.nytimes.com/2021/10/10/opinion/trans-abortion-rights.html>
- Brenan, M. (2020, January 29). *Women still handle main household tasks in U.S.* Gallup.com. Retrieved March 10, 2023, from <https://news.gallup.com/poll/283979/women-handle-main-household-tasks.aspx>
- Butler, J. (1988). Performative Acts and Gender Constitution: An Essay in Phenomenology and Feminist Theory. *Theatre Journal*, 40(4), 519–531. <https://doi.org/10.2307/3207893>
- Butler, J. (2006). *Gender trouble*. Taylor and Francis.
- Butler, J. (2011). *Bodies that matter: On the discursive limits of sex*. Taylor and Francis.
- Cannold, L. (2002). Understanding and responding to anti-choice women-centred strategies. *Reproductive Health Matters*, 10(19), 171–179. [https://doi.org/10.1016/s0968-8080\(02\)00011-3](https://doi.org/10.1016/s0968-8080(02)00011-3)
- Centers for Disease Control and Prevention. (2022, November 17). *CDCs abortion surveillance system faqs*. Centers for Disease Control and Prevention. Retrieved March 10, 2023, from https://www.cdc.gov/reproductivehealth/data_stats/abortion.htm
- Clay, R. (2022, January 1). Millions of women have left the workforce. Psychology can help bring them back. Monitor on Psychology. Retrieved October 14, 2022, from <https://www.apa.org/monitor/2022/01/special-workforce-losses>

- Cha, A. E., & Roubein, R. (2021, December 1). *Fetal viability is at the center of Mississippi abortion case. Here's why*. The Washington Post. Retrieved January 23, 2023, from <https://www.washingtonpost.com/health/2021/12/01/what-is-viability/>
- Coggon, J., & Miola, J. (2011). Autonomy, liberty, and medical decision-making. *The Cambridge Law Journal*, 70(3), 523–547. <https://doi.org/10.1017/s0008197311000845>
- Cohen, E., & Bonifield, J. (2022, November 17). *Texas woman almost dies because she couldn't get an abortion*. CNN. Retrieved March 10, 2023, from <https://www.cnn.com/2022/11/16/health/abortion-texas-sepsis/index.html>
- Colb, S. F. (2021, May 6). *In defense of viability*. In Defense of Viability. Retrieved February 5, 2023, from <http://www.dorfonlaw.org/2021/05/in-defense-of-viability.html>
- Defending Life 2017*. Americans United for Life (AUL). (2017). Retrieved September 24, 2018, from <http://www.aul.org/wp-content/uploads/2017/03/AULDefendingLife2017Overview.pdf>, Internet Archive <https://web.archive.org/web/20180924170126/http://www.aul.org/wp-content/uploads/2017/03/AULDefendingLife2017Overview.pdf>
- Deo, M. E. (2021, June 6). *Why BIPOC fails*. Virginia Law Review. Retrieved March 10, 2023, from <https://virginialawreview.org/articles/why-bipoc-fails/>
- Doan, A. E., & Schwarz, C. (2020). Father knows best: “protecting” women through State Surveillance and Social Control in anti-abortion policy. *Politics & Policy*, 48(1), 6–37. <https://doi.org/10.1111/polp.12337>
- Dobbs v. Jackson Women’s Health Org*, 597 U.S. (2022).
- Duffin, E. (2022, July 27). Percentage of the U.S. population with a college degree, by gender 1940-2021. Statista. Retrieved October 14, 2022, from <https://www.statista.com/statistics/184272/educational-attainment-of-college-diploma-or-higher-by-gender/>
- Fiscal Data explains federal spending*. Federal Spending | U.S. Treasury Fiscal Data. (2022, September 30). Retrieved January 17, 2023, from <https://fiscaldata.treasury.gov/americas-finance-guide/federal-spending/#spending-categories>
- Friedan, B. (2013). *The feminine mystique*. W.W. Norton & Company.
- Gay, M. (2022, July 2). The Republican War on sex. The New York Times. Retrieved October 14, 2022, from <https://www.nytimes.com/2022/07/02/opinion/abortion-ban-sex.html>
- Gentile, K. (2011). What about the baby? the new cult of domesticity and media images of pregnancy. *Studies in Gender and Sexuality*, 12(1), 38–58. <https://doi.org/10.1080/15240657.2011.536056>

- Goodwin, M. (2022, June 26). *No, Justice Alito, reproductive justice is in the Constitution*. The New York Times. Retrieved October 13, 2022, from <https://www.nytimes.com/2022/06/26/opinion/justice-alito-reproductive-justice-constitution-abortion.html>
- General Court of the Commonwealth of Massachusetts. FY2022 Final Budget. (2021, July 16). Retrieved March 12, 2023, from <https://malegislature.gov/Budget/FY2022/FinalBudget>
- Jenkins, J. (2022, August 5). *Catholic bishops spent big on Kansas abortion vote - and maybe lost bigger*. The Washington Post. Retrieved February 5, 2023, from <https://www.washingtonpost.com/religion/2022/08/05/catholics-kansas-abortion-vote/>
- Kaur, H. (2022, September 4). *The language we use to talk about pregnancy and abortion is changing. but not everyone welcomes the shift*. CNN. Retrieved February 21, 2023, from <https://www.cnn.com/2022/09/04/us/abortion-pregnant-people-women-language-wellness-ccc/index.html>
- Liu, E. C., & Shen, W. W. (2022, July 20). *The hyde amendment: An overview*. Congressional Research Service (CRS). Retrieved March 22, 2023, from <https://crsreports.congress.gov/product/pdf/IF/IF12167>
- Livingston, G., & Cohn, D. V. (2013, May 10). *Record share of new mothers are college educated*. Pew Research Center's Social & Demographic Trends Project. Retrieved March 10, 2023, from <https://www.pewresearch.org/social-trends/2013/05/10/record-share-of-new-mothers-are-college-educated/>
- Masci, D., & Lupu, I. C. (2013, January 16). *A history of key abortion rulings of the U.S. Supreme Court*. Pew Research Center's Religion & Public Life Project. Retrieved October 11, 2022, from <https://www.pewresearch.org/religion/2013/01/16/a-history-of-key-abortion-rulings-of-the-us-supreme-court/>
- Manjeshwar, S. (2020, November 4). *America's forgotten history of forced sterilization*. Berkeley Political Review. Retrieved March 10, 2023, from <https://bpr.berkeley.edu/2020/11/04/americas-forgotten-history-of-forced-sterilization/>
- McCann, A. (2022, September 28). *What it costs to get an abortion now*. The New York Times. Retrieved February 14, 2023, from <https://www.nytimes.com/interactive/2022/09/28/us/abortion-costs-funds.html>
- Medicaid and CHIP Payment and Access Commission. (2021, June). *Physician acceptance of new Medicaid patients*. MACPAC. Retrieved March 22, 2023, from <https://www.macpac.gov/wp-content/uploads/2021/06/Physician-Acceptance-of-New-Medicaid-Patients-Findings-from-the-National-Electronic-Health-Records-Survey.pdf>
- Medosch, E. (2021, May 28). *Not just ice: Forced sterilization in the United States: Immigration and human rights law review*. Immigration and Human Rights Law Review | The Blog.

Retrieved March 10, 2023, from <https://lawblogs.uc.edu/ihr/r/2021/05/28/not-just-ice-forced-sterilization-in-the-united-states/>

Mithani, J., Luthra, S., & Johnston, A. (2023, January 20). *What abortion looks like in every state - right now*. The 19th. Retrieved March 1, 2023, from <https://19thnews.org/2022/05/abortion-rights-restrictions-laws-in-your-state/>

Moran, R. L. (2021). A women's health issue?: Framing post-abortion syndrome in the 1980s. *Gender & History*, 33(3), 790–804. <https://doi.org/10.1111/1468-0424.12554>

O'Reilly, K. B. (2022, November 17). *AMA holds fast to principle: Reproductive Care is health care*. American Medical Association. Retrieved March 22, 2023, from <https://www.ama-assn.org/delivering-care/public-health/ama-holds-fast-principle-reproductive-care-health-care>

Ortner, S. B. (1972). Is Female to Male as Nature Is to Culture? *Feminist Studies*, 1(2), 5–31. <https://doi.org/10.2307/3177638>

Parker, K., Horowitz, J. M., & Brown, A. (2022, June 28). *Americans' complex views on gender identity and transgender issues*. Pew Research Center's Social & Demographic Trends Project. Retrieved February 20, 2023, from <https://www.pewresearch.org/social-trends/2022/06/28/americans-complex-views-on-gender-identity-and-transgender-issues/>

Planned Parenthood Federation of America. (2022, October 13). *There's no such thing as a "late-term abortion"*. Planned Parenthood. Retrieved February 14, 2023, from <https://www.plannedparenthood.org/blog/theres-no-such-thing-as-a-late-term-abortion>

Ray, J., & Esipova, N. (2017, March 8). *Millions of women worldwide would like to join the workforce*. Gallup.com. Retrieved March 22, 2023, from <https://news.gallup.com/poll/205439/millions-women-worldwide-join-workforce.aspx>

Robinson, H. (2020, September 11). *Dualism*. Stanford Encyclopedia of Philosophy. Retrieved March 9, 2023, from <https://plato.stanford.edu/entries/dualism/>

Rodríguez, J. A. (2022, December 2). *How Dobbs triggered a 'vasectomy revolution'*. Politico. Retrieved March 1, 2023, from <https://www.politico.com/news/magazine/2022/12/02/how-dobbs-triggered-a-vasectomy-revolution-00070461>

Rovner, J. (2009, December 14). *Abortion funding ban has evolved over the years*. NPR. Retrieved December 31, 2022, from <https://www.npr.org/2009/12/14/121402281/abortion-funding-ban-has-evolved-over-the-years>

Selyukh, A. (2020, December 16). *Paycheck-to-paycheck nation: Why even Americans with higher income struggle with bills*. NPR. Retrieved March 13, 2023, from <https://www.npr.org/2020/12/16/941292021/paycheck-to-paycheck-nation-how-life-in-america-adds-up>

- Shockley, K. M., Clark, M. A., Dodd, H., & King, E. B. (2021). Work-family strategies during COVID-19: Examining gender dynamics among dual-earner couples with young children. *Journal of Applied Psychology*, 106(1), 15–28. <https://doi.org/10.1037/apl0000857>
- Strachan, J. C., Poloni-Staudinger, L. M., Jenkins, S., & Ortals, C. D. (2020). *Why don't women rule the world?: Understanding women's civic and political choices*. SAGE, CQ Press.
- Targeted regulation of abortion providers*. Guttmacher Institute. (2023, February 3). Retrieved March 9, 2023, from <https://www.guttmacher.org/state-policy/explore/targeted-regulation-abortion-providers>
- Upadhyay, U. D., Ahlback, C., Kaller, S., Cook, C., & Muñoz, I. (2022). Trends in self-pay charges and insurance acceptance for abortion in the United States, 2017–20. *Health Affairs*, 41(4), 507–515. <https://doi.org/10.1377/hlthaff.2021.01528>
- U.S. Department of Health and Human Services. (n.d.). *FAQs category: Medicare and Medicaid*. HHS.gov. Retrieved March 22, 2023, from <https://www.hhs.gov/answers/medicare-and-medicaid/index.html>
- U.S. Department of Health and Human Services. (2022, October 20). *Inclusive and gender-neutral language*. National Institutes of Health. Retrieved February 21, 2023, from <https://www.nih.gov/nih-style-guide/inclusive-gender-neutral-language>
- Weisberg, D. K. (Ed.). (1993). *Feminist legal theory: Foundations*. Temple University Press.
- Welter, B. (1966). The Cult of True Womanhood: 1820-1860. *American Quarterly*, 18(2), 151. <https://doi.org/10.2307/2711179>
- Witcher, M. M. (2019). *Getting right with Reagan: The Struggle for True Conservatism, 1980-2016*. University press of Kansas.