

Two Years After *Dobbs*

Analysis of State Laws to Protect Reproductive Healthcare Info from Interstate Investigations and Prosecutions

June 2024

Authored by

Irene Kim, *CDT Intern*

Divya Vatsa, *CDT Intern*

Jake Laperruque, *Deputy Director, Security and Surveillance Project*

Following the Supreme Court’s June 2022 decision in [Dobbs](#) to overturn [Roe v. Wade](#), some states have banned or restricted abortion access, while others have moved to protect against criminal prosecutions stemming from such bans.

This intense split has created questions about how patients and providers located in one state will be impacted by the laws of another, especially when law enforcement seeks to compel disclosure of sensitive electronic information, such as [private online messages](#), related to abortion care. Over the past two years, numerous state legislatures have enacted legislation, and state governors have issued executive orders (hereinafter collectively referred to as “shield laws”) to protect providers and recipients of reproductive health services from out-of-state investigations. In many cases, these laws also shield information about gender-affirming care in the wake of growing anti-trans state bills across the country.

The breadth of these shield laws varies state by state.¹ Most state shield laws bar state government officials — including law enforcement — and state courts from assisting out-of-state investigations and prosecutions of protected healthcare activities. For example, a state judge could be prohibited from domesticating an out-of-state subpoena seeking location data showing that an individual visited an abortion clinic, or local police could be prohibited

1 CDT worked with the Tech Accountability and Competition Project of the Yale Law School’s Media Law Clinic to facilitate the creation of a field guide for state legislators contemplating their own shield laws. The field guide includes recommendations for making shield laws effective. <https://cdt.org/insights/report-field-guide-to-blocking-statutes-limiting-interstate-abortion-investigations/>

from aiding extradition of a doctor to a state where they've been criminally charged with performing unlawful abortions.

Some states, such as Washington and California, have also restricted the activities of communication service providers headquartered within their borders to preclude their cooperation with surveillance demands relating to reproductive health activities that occur outside the state. For example, California's shield law ([AB 1242](#)) prohibits Google from complying [in California](#) with a warrant sent to its headquarters from a Florida prosecutor demanding emails for an abortion investigation. Other state laws restrict medical professionals, organizations, and electronic health networks from sharing information for such investigations. Under these laws a medical data hub that maintains records could be barred from sharing information such as data regarding who is providing or receiving abortion medication.

Most shield laws are designed to protect both activities that occur entirely within the state that enacted the law as well as cross-state activities. This has a notable impact on telemedicine and travel: as an increasing number of patients [travel](#) for care or take [remotely-prescribed medication](#), they may still face legal threats, harassment or prosecution for obtaining care, even when such care is lawful where it is provided. The Department of Health & Human Services recently [updated the HIPAA Privacy Rule](#) to protect healthcare information in exactly this scenario, prohibiting the use or disclosure of protected health information when it is sought to investigate people seeking or providing reproductive care that is lawful under the circumstances in which such health care is provided.

Some shield laws additionally protect health care activities even if they occur *entirely outside* the state with that shield law. For example, the Washington shield law ([HB 1469](#)) prevents disclosure of information about reproductive health activities regardless of where services were rendered, including if they occurred in a state with a strict abortion ban. In other states, where shield laws do not specify whether the restrictions they impose apply to out-of-state reproductive health activities, state courts – absent evidence of contrary legislative intent and based on the state's interest in preventing entities within its jurisdiction from disclosing private healthcare information – are likely to read these laws broadly to apply protections regardless of where health care activities occur.

This document examines the state measures that have been implemented regarding reproductive health care information, reviewing all 22 states that the [Guttmacher Institute](#) (a leading reproductive health research organization) currently lists as providing at least some protections for abortion. Nineteen of these states have implemented shield laws, as is described in detail below. Three of these states – Alaska, Montana, and New Hampshire – have not enacted any legislation, nor have their governors issued any executive orders, that restrict out-of-state abortion investigations or prosecutions.

State	Restricts communication service providers	Restricts judges' actions (e.g. issuing a search warrant)	Restricts state officials' actions	Restricts medical professionals, health info exchanges, & e-health networks	Protects gender-affirming care
<i>California</i>	Y	Y	Y	Y	Y
<i>Colorado</i>	N	Y	Y	N	Y
<i>Conn.</i>	N	Y	Y	N	Y
<i>Delaware</i>	N	Y	N	Y	N
<i>Hawaii</i>	N	Y	Y	Y	N
<i>Illinois</i>	N	Y	N	N	Y
<i>Maine</i>	N	Y	Y	Y	Y
<i>Maryland</i>	N	Y	Y	Y	Y*
<i>Mass.</i>	N	Y	Y	N	Y
<i>Michigan</i>	N	N	Y	N	N
<i>Minn.</i>	N	Y	Y	N	Y
<i>NJ</i>	N	N	Y	Y	Y
<i>NM</i>	N	Y	Y	Y	Y
<i>NY</i>	Y	Y	Y	Y	Y
<i>Nevada</i>	N	N	Y	N	N
<i>Oregon</i>	N	Y	Y	N	Y
<i>RI</i>	Y*	Y*	Y	N	Y*
<i>Vermont</i>	N	Y	Y	N	Y
<i>Wash.</i>	Y	Y	Y	N	Y



Table 1. Breadth and key features of states' shield laws. "Y*" = legislation that has passed the state legislature and awaits the governor's signature.

California

Shield laws limit communications service providers' compliance with data demands relating to reproductive health activities, limit medical entities' compliance with data demands, and bar assistance from courts and law enforcement/state agencies.

California, followed by Washington, New York and Rhode Island, has been at the forefront of passing shield laws to stop communication service providers from complying with demands for data to investigate and prosecute reproductive health care activities. California's 2022 legislation [AB 1242](#) precludes (i) California corporations that provide communication services and (ii) corporations that provide communication services whose principal executive offices are in California from providing "records, information, facilities or assistance" *in California* pursuant to out-of-state legal process that relates to the providing, facilitating, or obtaining of an abortion. While the information or assistance must be in California for AB 1242 to apply, it critically restricts sharing information concerning activities anywhere in the country, meaning that this law shields data pertaining to reproductive health activities that occur entirely *outside California*. Some of the largest communication service providers — including Apple, Google and Meta — are bound by this shield law. AB 1242 also prohibits California courts and law enforcement agencies from aiding abortion-related investigations.

California also enacted [AB 2091](#), a shield law which prohibits health care providers, health care service plans (i.e., entities providing medical insurance coverage, health maintenance organizations), and contractors, from disclosing "medical information that would identify an individual or that is related to an individual seeking or obtaining an abortion" in response to a subpoena or a request, or to law enforcement seeking to enforce another state's laws that interfere with a person's rights to an abortion. Contractors bound by this shield law include medical groups, independent practice associations, pharmaceutical benefits managers, or medical service organizations that are not considered health care service plans or providers. [SB 107](#) (passed in September 2022) provides that same protections outlined in AB 2091 for individuals who allow a child to receive gender-affirming healthcare services, in addition to prohibiting law enforcement agencies from knowingly arresting/extraditing an individual pursuant to an out-of-state arrest warrant related to gender-affirming health care activity. In September 2023, California enacted [AB 352](#), which strengthens this shield law by prohibiting entities that store electronic health records and data from cooperating with investigations of reproductive or gender-affirming care, and exempts those entities from any penalties for such refusal to cooperate.

[SB 345](#) was passed in September 2023, and it protects patients and healthcare providers of both reproductive and gender-affirming healthcare services that are lawful in California from out-of-state actions targeting that activity. This law provides protections for any means of lawful healthcare service, including telehealth.

In addition to these statutes, the Governor of California signed [Executive Order 12-22](#) that prohibits all agencies and departments subject to the Governor's authority from assisting or providing abortion-related information for an out-of-state investigation or proceeding related to services performed in California.

Colorado

Shield law restricts assistance from courts and law enforcement/state agencies.

In April 2023, Colorado passed [SB23-188](#), which provides several protections for individuals seeking reproductive health care, including patients from outside Colorado, as well as medical professionals practicing in Colorado. The law restricts both state courts and state agencies from assisting with out-of-state proceedings or investigations into “legally protected health-care activity.” The law broadly defines “legally protected health-care activity” as “seeking, providing, receiving, or referring for; assisting in seeking, providing or receiving; or providing material support for or traveling to obtain gender-affirming health-care services or reproductive health care that is not unlawful in this state, including on any theory of vicarious, joint, several, or conspiracy liability.”

Importantly, the definition of “legally protected health-care activity” applies to any reproductive or gender-affirming care that is legal in Colorado, and explicitly states that protections apply regardless of the patient’s location or conspiracy liability. This extends the shield law’s protections to telehealth abortion care and to the provision of cross-state material aid, such as financial assistance for travel to secure reproductive health care. However, the definition also indicates that its protections apply to practitioners performing services while “physically present in the state.” The physical presence requirement creates ambiguity as to whether the shield law applies to activities occurring *entirely* out-of-state. If, for example, another state seeks extradition of a provider now residing in Colorado for reproductive care services the person provided in that other state that were not lawful in that other state, the Colorado shield law may not protect that person.

The law prohibits state courts and officials from issuing legal process related to investigations into a legally protected health care activity, including: subpoenas (Section 6), search warrants (Section 10), a summons (Section 11), and wiretapping or other electronic surveillance orders (Section 12). Finally, Section 22 of the law also prohibits a state agency or official from providing any information, including “patient medical records, patient-level data, or related billing information,” or expending government resources to assist with an out-of-state investigation or proceeding related to a legally protected health-care activity.

Connecticut

Shield law restricts assistance from courts and law enforcement/state agencies.

Connecticut established shield law protections weeks before *Roe* was overturned. In May 2022, Connecticut adopted [HB 5414](#) (codified as Public Act 22-19), *An Act Concerning The Provision Of Protections For Persons Receiving And Providing Reproductive Health Care Services In The State And Access To Reproductive Health Care Services In The State*. This Act prohibits a judge, justice of the peace, notary public or commissioner of the Superior Court from issuing “a subpoena requested by a commissioner, appointed according to the laws or usages of any other state or government, or by any court of the United States or of any other state or government,” when such subpoena relates to “reproductive health care services” unless the subpoena falls under limited exceptions.² The statute also prohibits public agencies, or individuals acting on behalf of a public agency, from providing any information or expending resources to further interstate investigations or proceedings seeking to impose civil or criminal liability related to reproductive healthcare services that are legal in Connecticut.

In 2022 Connecticut updated its [definition](#) of reproductive health services to additionally protect gender-affirming care, with the term now defined as “all medical, surgical, counseling or referral services relating to the human reproductive system, including, but not limited to, services relating to pregnancy, contraception or the termination of a pregnancy and all medical care relating to treatment of gender dysphoria.”

The statutory text does not specify whether the restriction only applies to reproductive health care services provided in Connecticut, or extends as well to those provided or received elsewhere. However, the title of the legislation indicates that it pertains to “reproductive health care services *in the state*,” suggesting that the law may only cover services provided within Connecticut. Further, in the provision regarding recovery of damages for adverse judgements from other states for conduct that is lawful in Connecticut, the text specifies that this only applies for conduct that occurred at least partially in Connecticut.

In June 2023, Connecticut passed [Public Act 23-56](#), a data privacy law. The law prohibits the use of geofences within 1,750 feet of a healthcare facility and prohibits any person from collecting, using, or sharing consumer health data without consent. However, the law states its prohibition on data sharing shall not be construed to restrict compliance with state laws, cooperation with law enforcement for any violation of state laws, or compliance with any state “civil, criminal or regulatory inquiry, investigation, subpoena or summons.” Thus while the law may limit upfront collection of relevant data, it will not shield against demands for data or other compelled assistance with other states’ investigations based on abortion bans.

2 Those exceptions are when (i) the out-of-state action is founded in tort, contract or statute for which a similar claim could be brought by a patient for damages under Connecticut law, or (ii) the out-of-state action is founded in contract for which a similar claim could be brought by a party with a contractual relationship with the subject of the subpoena under Connecticut law.

Delaware

Shield law restricts court assistance, and limits medical entities' compliance with data demands stemming from civil actions.

In June 2022, the Delaware governor signed legislation ([HB 455](#)) that prohibits state courts from issuing or enforcing (i) a summons in a case for prosecution or a grand jury investigation for a criminal violation of another state's law related to terminating a pregnancy, or (ii) a subpoena for information or testimony issued by another state or government relating to a civil action for abortion care. The law also prohibits healthcare providers from disclosing information (ex: communications and records of treatment) in civil actions without patient consent, which could guard against abortion bans built upon "[bounty laws](#)." The law prohibits insurance companies from taking adverse actions against health care professionals for performing or assisting in providing reproductive health care services to out-of-state residents, including via telehealth by prescribing medication to terminate a pregnancy. While the language does not explicitly specify whether the protections apply for activity that has occurred out of state, the language regarding insurance companies seems to indicate that this law protects out-of-state activity. Further, Section 3, which focuses on recovering damages for adverse judgments from out-of-state proceedings, states that at least some part of the activity need to have occurred in Delaware. This law was amended in April 2024 ([HB 374](#)) to afford the same protections that providers of contraceptive and abortion services have to providers of fertility treatment.

Hawaii

Shield law restricts HIPAA-covered entities' responses to data demands, and restricts assistance from courts and law enforcement/state agencies.

In March 2023, Hawaii enacted [SB1](#) (codified as Act 2), which prohibits a health plan, a health care clearinghouse, or a health care provider who transmits any health information in electronic form from disclosing information concerning reproductive health care services that are permitted under the laws of the state with limited exceptions. Specifically, it prohibits disclosure of (i) any communication made to or obtained by the entity, or (ii) any information obtained by personal examination of a patient that, in either case, relates to reproductive health care services. The entities whose conduct is restricted are all entities covered by the federal regulations issued under the 1996 Health Insurance Portability and Accountability Act (HIPAA).

The law also prohibits state courts from issuing subpoenas requested by another state or the federal government in connection with an out-of-state or interstate investigation or proceeding relating to reproductive health care services legally performed in Hawaii.

Finally, the legislation prohibits state agencies, including law enforcement agencies, from providing any information or expending resources for out-of-state or interstate investigations seeking to impose civil or criminal liability for: (i) the provision of, seeking, paying for, receipt of, or inquiring about reproductive health care services that would be legal if provided in Hawaii; or (ii) assisting any person or entity providing, seeking, receiving, paying for, or responding to an inquiry about reproductive health care services that would be legal if provided in Hawaii. While the restrictions on the courts are for abortions legally performed in Hawaii, the restrictions on state personnel and agencies pertain to abortions no matter where they occur. Act 2 is bolstered by Hawaii's right to privacy, which is codified in the state constitution at Art. 1, Section 6.

Illinois

Shield laws restrict court assistance, and limit particular disclosures.

In January 2023, the Governor signed legislation ([HB 4664](#)), which amends the Illinois version of the Uniform Interstate Depositions and Discovery Act (UIDDA) which makes the procedure for obtaining an out-of-state subpoena similar to the procedure for obtaining an in-state subpoena. The Illinois legislation prohibits a clerk of court from issuing a subpoena that requests information or documents relating to lawful health care activity (defined to cover reproductive health care and gender-affirming care), or to the enforcement of another state's law that would interfere with an individual's rights under the Reproductive Health Act, which protects the right to an abortion. If a person or entity requests a subpoena of documents or information related to lawful health care activity or that interferes with rights under the Reproductive Health Act, they must "include an attestation, signed under penalty of perjury," confirming that a specific exemption applies.³ A false attestation or failure to submit an attestation would be subject to a statutory penalty of \$10,000 per violation. The legislation also amends the Illinois version of the Uniform Act to Secure the Attendance of Witnesses from Within or Without a State in Criminal Proceedings so that "no subpoena, summons, or order shall be issued for a witness to provide information or testimony" in relation to lawful health care activity.

Illinois has also passed laws to limit disclosures in a select set of circumstances: [HB 3326](#) (passed in August 2023) protects individuals traveling to the state seeking an abortion from being tracked by out-of-state police using data from automated license plate readers. This is the first legislation of this kind passed in the country. [HB 5239](#) passed both houses in May 2024 and awaits the governor's signature. It will extend HB 4664 protections to location, medical, and billing records and information by exempting such data from Freedom of Information Act disclosures.

3 Specific exemptions include if the out-of-state action is founded in tort, contract, or statute for damages suffered by the patient and for which a similar claim would exist under Illinois law, or if the out-of-state action is founded in contract brought by a party with a contractual relationship with the individual who's subject of the subpoena and for which a similar claim would exist in Illinois.

Maine

Legislation restricts assistance from courts and law enforcement/state agencies, and limits medical entities' compliance with data demands.

In July 2022, the Governor of Maine signed [Executive Order 4](#) titled *Protecting Access to Reproductive Health Care Services in Maine*. It provides that, except as required by court order, no executive agency or individual acting on behalf of any executive agency may provide any information or expend resources in furtherance of an out-of-state investigation or proceeding to impose civil or criminal liability for seeking, obtaining, or providing assistance related to reproductive health care services that are legal in Maine.

Building upon the executive order, in April 2024 Maine passed [LD 227](#) – *An Act Regarding Legally Protected Health Care Activity in the State* – which protects those providing or receiving reproductive and gender-affirming health care from out-of-state legal action. The law prohibits courts of the state from ordering testimony, issuing a summons, or issuing a subpoena related to hostile litigation or criminal prosecution in another state based on healthcare activity that is lawful in Maine. Judges may not issue warrants allowing government entities to obtain electronic data from communication service providers to aid investigations into healthcare activity that is lawful in Maine. State officials and agencies, except as required by federal law, are prohibited from providing information, arresting individuals, or otherwise expending resources for interstate, federal, or other state investigations/proceedings or related to protected healthcare activities.

The law also sets rules prohibiting health care practitioners, facilities, or state-designated statewide health information exchanges from disclosing any communication or information related to reproductive or gender-affirming healthcare without patient consent, pursuant to a court order produced by a state court of Maine (which are limited pursuant to the rules described above), or pursuant to a disclosure request by a federal agency investigating child abuse. Finally, the law shields healthcare providers from professional disciplinary action for engaging in or aiding/assisting legally protected healthcare activity.

The legislation's text does not explicitly mention whether protections apply to reproductive care that occurs out-of-state. However, the preamble of the law declares "Access to gender-affirming health care services and reproductive health care services *in this State*, as authorized under the laws of this State, is a legal right" and that any ban which "interferes with a person *in this State* who engages in legally protected health care activity or *who aids and assists* legally protected health care activity ... Is against the public policy of this State" (emphasis added). This text indicates that activities that occur in Maine with cross-state implications – notably providing telemedicine services or financial assistance for out-of-state reproductive health activities – are protected under the law. However, the law likely does not protect activities that occur *entirely* out-of-state; for example, it likely would not prohibit assisting in the extradition of an individual who unlawfully performed an abortion outside of Maine.

Maryland

Shield laws restrict assistance from courts and law enforcement/state agencies, and limit medical entities' compliance with data demands.

Maryland has passed several measures to expand access to reproductive health care. The Reproductive Health Protection Act ([SB 859](#)) prohibits a judge from requiring a person within the state “to give testimony or produce documents, electronically stored information, or other tangible things” for a violation of another state’s criminal law involving the provision of, receipt of, or assistance with health care legally protected in Maryland. Legally protected health care is defined as “all reproductive health services, medications, and supplies related to the direct provision or support of the provision of care related to pregnancy, contraception, assisted reproduction, and abortion that is lawful in the State.” The bill also states that a party requesting a subpoena must include a “sworn, written statement signed under penalty of perjury” that “no portion of the subpoena is intended or anticipated to further any investigation or proceeding related to legally protected health care,” unless it falls within limited exceptions. The law also prohibits a state agency or an individual acting on behalf of the state from providing information or expending resources to further an interstate investigation or proceeding seeking to impose civil or criminal liability on or against a person for “any activity relating to legally protected health care” if the activity is legal in Maryland.

Additionally, a separate Act ([SB 786](#)) restricts how custodians of public records, health information exchanges, and electronic health networks may disclose certain information related to legally protected health care. The legislation defines “legally protected health care” to mean the provision of abortion care as well as “other sensitive health services as determined by the Secretary based on the recommendations of the Protected Health Care Commission.” Starting December 1, 2023, a health information exchange or electronic health network may not disclose mifepristone data or information related to abortion care or other sensitive health services unless under certain exceptions.

[SB 119](#) was signed into law in May 2024 and extends the definition of “legally protected health care” to gender-affirming healthcare, thus expanding the protections from the previous legislation to gender-affirming care.

Massachusetts

Shield law restricts assistance from courts and law enforcement/state agencies.

On July 29, 2022, the Governor of Massachusetts signed into law [H.5090](#). The law states that no officer or employee of a state law enforcement agency shall provide information or assistance to any state or federal law enforcement agency, private citizen, or quasi-law enforcement agent in relation to an investigation or inquiry into “legally-protected health care activity,” if such services would be lawful as provided if they occurred entirely in Massachusetts. It also prohibits a Massachusetts court from ordering anyone located or domiciled within the state to give testimony or produce documents for any investigation outside the state concerning legally-protected health care activity.

Legally-protected health care activity includes reproductive health care and gender-affirming health care services. The law also states that such care is legally protected when provided by a person duly licensed and physically present in Massachusetts, regardless of the patient’s location. Thus the law protects telemedicine, but may not extend to activities that occurred entirely out-of-state.

Michigan

Executive order restricts assistance from law enforcement/state agencies.

On May 25, 2022, the Governor of Michigan signed an [Executive Order No. 2022-5](#) instructing state departments not to cooperate with or assist authorities of any state in any investigation or proceeding against “anyone for obtaining or providing, or assisting another to obtain or provide, any reproductive health care that is legal under the law of the jurisdiction where the health care is provided.” The Executive Order thus prohibits state government officials and agencies from assisting with another state’s investigation or proceeding against an individual who provided, received, or assisted another with an abortion if the care was legal in the jurisdiction where it was provided. In December 2023, Michigan passed the [Reproductive Health Act](#), but it did not include any shield law provisions.

Minnesota

Shield law restricts assistance from courts and law enforcement/state agencies.

On June 25, 2022, the Governor of Minnesota signed an [Executive Order 22-16](#) restricting the assistance that state agencies can provide for any investigation or proceeding concerning reproductive health care services that are legal in Minnesota. A year later, in April 2023, the Governor signed legislation ([HF 366](#)) that restricts the enforcement of subpoenas issued in cases related to reproductive health. The law specifies that (i) another state's law that authorizes a civil or criminal subpoena to obtain a patient's health records related to reproductive health care services cannot authorize the release of health records; and, (ii) another state court's order authorizing the investigation or enforcement of another state's law that restricts or punishes reproductive health care services does not constitute a specific authorization to release health records. Additionally, a subpoena issued in Minnesota or another state for an attendance of a witness or the production of records cannot be enforced in Minnesota if it relates to a civil or criminal action for violating another state's law restricting abortion.

In April 2023 Minnesota also passed [HF 146](#), which authorizes protections of the kind outlined in HF 366 for gender-affirming healthcare.

New Jersey

Shield law restricts data demands from HIPAA-covered entities, and assistance from law enforcement/state agencies.

On July 1, 2022, the Governor of New Jersey signed legislation ([AB 3975](#)) that generally prohibits covered entities under HIPAA (i.e., health plans, health clearinghouses, and health care providers) from disclosing (i) any communication, or any information obtained relating to reproductive health care services; or (ii) any information obtained by personal examination of a patient relating to reproductive health care services without the patient's explicit written consent in any civil, probate, legislative, or administrative proceeding. The bill also prohibits a public entity of the state or a person acting on behalf of the state from providing any information or expending resources in furtherance of any interstate investigation or proceeding seeking to impose civil or criminal liability related to reproductive health care services.

In April 2023, Governor Murphy also signed [Executive Order No. 326](#), which provides shield protections for individuals who receive gender-affirming healthcare in New Jersey from out-of-state proceedings or investigations.

New Mexico

Shield laws restrict assistance from courts and law enforcement/state agencies; and limits medical entities' compliance with data demands.

On April 5, 2023, the Governor of New Mexico signed legislation ([SB 13](#)) that codifies protections originally included in the Governor's August 2022 Executive Order. Specifically, Section 3 of the law prohibits public bodies (i.e., state or local government, an advisory board, a commission, a government agency receiving public funding) from releasing information or using resources in furtherance of an out-of-state investigation or proceeding that seeks to impose civil or criminal liability or professional disciplinary action for engaging in protected health care activity. Protected health care activity is defined as reproductive and gender-affirming health care.

Section 4 also prohibits a party from submitting an out-of-state subpoena or summons for discovery or for a witness to provide testimony related to an interstate investigation or proceeding seeking to impose civil or criminal liability or professional disciplinary action related to protected health care activity. The exception is if there is a signed attestation, under penalty of perjury, that the subpoena or summons relates to an out-of-state action for which the same claim exists under New Mexico law. A party that omits or submits a false attestation may be subject to a suit for damages or penalties as well as a statutory penalty of \$10,000 if the court finds the attestation was made intentionally, knowingly, willingly, or recklessly.

Section 6 also heightens protection for electronically transmitted information related to protected health care activity. The law prohibits requesting a third party for information related to an individual's protected health care activity with the intent to: (i) harass, humiliate or intimidate; (ii) incite another to harass, humiliate or intimidate; (iii) cause reasonable fear for an individual's own or family members' safety; (iv) cause unwanted physical contact or injury; (v) cause substantial emotional distress; or (vi) deter, prevent, sanction or penalize an individual or entity for engaging in a protected health care activity. The section defines "third party" as an individual or entity who transmits information related to protected health care activity, in the normal course of business, in an electronic format.

New York

Shield laws restrict data demands from companies and private actors, and assistance from courts and law enforcement/state agencies.

In June 2022, New York enacted [S9077A](#) that forbids state or local law enforcement agencies from cooperating with or providing information to an out-of-state agency or department regarding a “lawful abortion performed in [the] state.” The law also prohibits a court or county clerk from issuing a subpoena in connection with an out-of-state proceeding relating to abortion services that were performed legally in the state, unless limited exceptions apply. Therefore, if a lawful abortion were performed in the state of New York, local law enforcement agencies cannot cooperate with or assist another state agency’s investigation or proceeding into that abortion. However, this restriction would not apply if the abortion were performed in another state where abortion was banned. In June 2023, the governor signed [S1066B](#), which expands the 2022 legislation by explicitly ensuring that shield law protections apply to telehealth services for patients not present in New York. In June 2023, New York also enacted [S2475B](#), a shield law that protects patients and providers of gender-affirming health care from out-of-state proceedings, prohibits state officials from providing information for such proceedings, and prohibits courts and county clerks from issuing subpoenas for such proceedings, with some exceptions.

New York also enacted a shield law, ([S4007C](#)) similar to the laws passed in California and Washington, by adding a provision to the state’s general business law that passed in May 2023. The provision generally prohibits companies incorporated or headquartered in New York that provide electronic communication services from complying with warrants (but not other types of legal demands), related to any criminal or civil offense that restricts reproductive health care activities. The section also empowers the state attorney general to compel compliance with the shield law. However, as [CDT has previously noted](#), the law’s attestation rule requiring companies confirm that data demands are unrelated to abortion has loopholes, which could undermine its effectiveness.

Nevada

Shield law restricts assistance from law enforcement/state agencies.

On May 30, 2023, the Governor of Nevada signed legislation ([SB 131](#)) that ensures greater protection for patients seeking abortion care within the state, codifying [Executive Order 2022-08](#) signed last year by the previous governor. Section 3 of the law prohibits state agencies or individuals acting on behalf of the agency from providing information or expending resources in furtherance of an out-of-state investigation or proceeding related to reproductive health care services except as required by a court order from a competent jurisdiction. However, the prohibition on providing information or expending resources does not apply to an investigation or proceeding where the conduct under investigation would create civil or criminal liability or professional sanction under Nevada law if it had occurred in Nevada, and if there is a written request for assistance by the individual who is the subject of the investigation or proceeding.

In June 2023, Nevada passed [SB 370](#), a data privacy law. The law prohibits the use of geofences within 1,750 feet of a healthcare facility and prohibits “regulated entities” (defined as “a person who: (1) conducts business in this State or produces or provides products or services that are targeted to consumers in this State; and (2) determines the purpose and means of processing, sharing or selling consumer health data”) from collecting, using, or sharing consumer health data without consent. However, this prohibition on data sharing does not apply “[w]here required or authorized by another provision of law,” limiting the extent to which it shields data sought with warrants, subpoenas, or other legal process issued in investigations of reproductive health activities.

Oregon

Shield law restricts assistance from courts and law enforcement/state agencies.

In August 2023, the Oregon legislature passed [HB 2002](#), which restricts a public body (i.e., state government bodies, local government bodies and special government bodies), or an agent of a public body from “subject[ing] an individual to criminal or civil liability or penalty, or otherwise deprive the individual of any rights” based on the individual’s actions in exercising their reproductive health rights or solely on the person’s actions in the provision of aid to another individual seeking an abortion. This broad language may restrict Oregon government bodies and officials from cooperating with or assisting other states’ criminal or civil investigations related to reproductive health care.

Additionally, the law prohibits a clerk of court from issuing a subpoena if it relates to “gender-affirming treatment or reproductive health care services that are permitted under the laws of this state” with limited exceptions, such as if the out-of-state action is founded in tort, contract, or statute for damages suffered by the patient and for which a similar claim would exist under Oregon law.

Rhode Island

Executive order restricts assistance from law enforcement/state agencies; legislation pending governor's signature would limit companies' compliance with data demands relating to reproductive health activities, limit medical entities' compliance with data demands, and bar assistance from courts and law enforcement/state agencies.

On July 5, 2022, the Governor of Rhode Island signed [Executive Order 22-28](#), *Reproductive Rights for Rhode Islanders and Those Providing and Obtaining Reproductive Health Care Services in Rhode Island*. It provides that no executive agency under the Governor, except as required by a court, may provide information or expend resources for another state's investigation or proceeding to impose civil or criminal liability or professional sanction on an individual or entity for seeking, obtaining, or providing assistance related to reproductive health care services that are legal in Rhode Island. The title of the Executive Order specifies "reproductive health care services *in Rhode Island*" (emphasis added), which may geographically limit the required non-cooperation to activity within the state.

On June 13, 2024, the Rhode Island legislature passed the *Health Care Provider Shield Act* ([SB2262](#)), which now awaits the governor's signature to become law. This bill would codify protections for patients and providers of both reproductive and gender-affirming healthcare. The language extends protections to healthcare providers located in Rhode Island and any patient receiving care from Rhode Island-based providers, regardless of their own location. A court may not order an individual found in Rhode Island facing hostile proceedings from another state that relate to reproductive or gender-affirming care to provide testimony or produce documents, and no judge may issue a summons or subpoena for investigations that are based on healthcare activities that are legal in Rhode Island. Businesses that are incorporated or have a principal place of business in the state would be prohibited from "knowingly provid[ing] records, information, facilities, or assistance in response to a subpoena, warrant, court order, or other civil or criminal legal process" related to hostile out-of-state litigation for activity that is legal in Rhode Island. These businesses would also be prohibited from complying with such subpoenas, warrants, court orders, or other legal process from other states. While other states have imposed such limitations on businesses that provide communication services, Rhode Island would impose them on all businesses. Public agencies and state officials would be prohibited from providing any information or expending any resources to further interstate investigations or to assist a federal or other state's law enforcement agency on issues related to healthcare activity that is lawful in Rhode Island. Finally, the bill would protect healthcare providers from adverse disciplinary action for providing legally protected healthcare services.

Vermont

Shield law restricts assistance from courts and law enforcement/state agencies.

On May 10, 2023 the Governor of Vermont signed a comprehensive health care package, including a law ([H.89](#)) that partially protects individuals seeking gender-affirming health care or an abortion in Vermont from civil or criminal litigation in another state. Specifically, the law prohibits a Vermont court from ordering anyone within Vermont to give testimony or produce documents outside Vermont concerning “abusive litigation” involving “legally protected health care activity.”

The law defines “legally protected health care activity” to include both reproductive health and gender-affirming health care services. It also explicitly protects provision of health care services provided by a person licensed in and physically present in Vermont, regardless of the patient’s location or whether the provider is licensed in the state where the patient is located at the time the service is rendered. This language protects telemedicine and mailing medication, but also hints at protection for services that may have occurred outside Vermont for a patient who is out-of-state.

“Abusive litigation” is defined as a legal action to deter, prevent or punish any person engaging in legally protected protected health care activity by (i) filing an action in another state where liability is based at least in part on legally protected health care activity that occurred in Vermont, or (ii) attempting to enforce an order or judgment issued in connection with such legal action.

The legislation also prohibits a public agency or person acting on behalf of a public agency from “knowingly” providing information or expending resources in furtherance of an interstate investigation or proceeding seeking to impose civil or criminal liability related to legally protected health care activity.

Washington

Shield law restricts data demands from companies, and assistance from courts and law enforcement/state agencies.

Similar to California, Washington's shield law ([HB 1469](#)) prohibits "a business entity that is incorporated, or has its principal place of business, in Washington that provides electronic communication services" – such as Microsoft and Amazon – from complying with legal process demanding records, information, or assistance related to an investigation or prosecution of "protected health care services," which covers reproductive health care services and gender-affirming care.

Washington's law also restricts its courts from issuing a warrant, or enforcing a subpoena or other civil or criminal legal process pursuant to any state law in connection with another state's proceeding related to protected health care services that are legal in Washington. The bill defines protected health care services as gender-affirming treatment and reproductive health care services. The law also prohibits a state or local agency, or any employee acting in their official capacity from cooperating with or providing information to another state agency or a federal law enforcement agency for the purpose of asserting criminal or civil liability related to protected health care services.

Conclusion

Significant progress has been made in states to protect reproductive health care data following Dobbs. However, the scope of these laws is wide-ranging, as seen in the variation of which type of care is protected and to whom the law applies. While this is an area where federal lawmakers could step in to ensure greater protections for data concerning both reproductive health and gender-affirming care, the polarizing nature of these issues makes Congressional action unlikely. It is reasonable to anticipate that states will continue to be split: some states will shield data that could be used to investigate reproductive health activities, and others will seek it. For the near future, enshrining shield laws that are strong, clear, and apply broadly to different entities who may hold or access private information (such as courts, government agencies, health care entities, and companies) may be the most comprehensive protection states can offer.

**Find out more about CDT's
work on reproductive
privacy at [cdt.org/
reproductive-rights](https://cdt.org/reproductive-rights).**

The Center for Democracy & Technology (CDT) is the leading nonpartisan, nonprofit organization fighting to advance civil rights and civil liberties in the digital age. We shape technology policy, governance, and design with a focus on equity and democratic values. Established in 1994, CDT has been a trusted advocate for digital rights since the earliest days of the internet.