No. 19-1392

IN THE

Supreme Court of the United States

THOMAS E. DOBBS, M.D., M.P.H., IN HIS OFFICIAL CAPACITY AS STATE HEALTH OFFICER OF THE MISSISSIPPI DEPARTMENT OF HEALTH, et al.,
Petitioners,

v.

JACKSON WOMEN'S HEALTH ORGANIZATION, ON BEHALF OF ITSELF AND ITS PATIENTS, et al.,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

BRIEF OF *AMICI CURIAE* LEGAL VOICE, ASIAN PACIFIC INSTITUTE ON GENDER-BASED VIOLENCE, COALITION ENDING GENDER-BASED VIOLENCE, UJIMA, INC., FUTURES WITHOUT VIOLENCE, IDAHO COALITION AGAINST SEXUAL & DOMESTIC VIOLENCE, LOS ANGELES LGBT CENTER, NATIONAL ALLIANCE TO END SEXUAL VIOLENCE, NATIONAL COALITION AGAINST DOMESTIC VIOLENCE, NATIONAL DOMESTIC VIOLENCE HOTLINE, NATIONAL NETWORK TO END DOMESTIC VIOLENCE, SANCTUARY FOR FAMILIES, SEXUAL VIOLENCE LAW CENTER, AND WASHINGTON STATE COALITION AGAINST DOMESTIC VIOLENCE, IN SUPPORT OF RESPONDENTS

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INTEREST OF *AMICI CURIAE*[1]

Amici are experts in law, social science, and advocacy supporting survivors of intimate partner violence ("IPV").

The Asian Pacific Institute on Gender-Based Violence is a national resource center on domestic violence, sexual violence, trafficking, and other forms of gender-based violence impacting Asian and Pacific Islander and immigrant communities.

Coalition Ending Gender-Based Violence is a group of over 30 member organizations in the King County, Washington region that works to end gender-based violence and promote safe and equitable relationships through collective action for social change.

Futures Without Violence, a national health and social justice organization working to end violence for over 35 years, recognizes that health access including a full range of reproductive health access is important for all people and particularly survivors of IPV.

The **Idaho Coalition Against Sexual & Domestic Violence** is a member-based organization with the mission of engaging voices to create change in the prevention, intervention, and response to sexual assault, domestic violence, dating violence, and stalking.

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[1] Pursuant to Rule 37.2(a), counsel for all parties have consented to the filing of this brief. Pursuant to Rule 37.6, no counsel for a party authored this brief in whole or in part and no person or entity other than *Amici*, its members, or counsel made a monetary contribution to its preparation or submission.

Legal Voice is a non-profit public interest organization that works to protect and advance reproductive rights for women and LGBTQ+ people and to improve protections for survivors of IPV.

The **Los Angeles LGBT Center** is the world's largest LGBT organization of any kind and has long been at the forefront of addressing, responding, and drawing national attention to the problem of LGBTQ domestic violence.

The **National Alliance to End Sexual Violence** is the national voice on behalf of 56 state and territorial sexual assault coalitions and 1500 rape crisis centers working to end all forms of sexual violence and support survivors.

The **National Coalition Against Domestic Violence's** mission is to lead, mobilize and raise our voices to support efforts that demand a change of conditions that lead to domestic violence such as patriarchy, privilege, racism, sexism, and classism.

National Domestic Violence Hotline provides lifesaving tools and immediate support to enable victims to find safety and live lives free of abuse.

National Network to End Domestic Violence is a non-profit organization that serves as the national voice of millions of people victimized by domestic violence through its network of the 56 state and territorial domestic violence and dual coalitions and their over 2,000 member programs.

Sanctuary for Families is a New York City-based non-profit organization dedicated to the safety, healing, and self-determination of victims of domestic violence and related forms of gender violence.

Sexual Violence Law Center is a non-profit legal services organization based in Washington that aims to protect the privacy, safety, and civil rights of survivors of sexual violence through legal representation and victim advocacy.

Ujima Inc., The National Center on Violence Against Women in the Black Community's mission is to mobilize the community to respond to and end domestic, sexual, and community violence in the Black community through research; public awareness and community engagement; resource development; education and outreach for comprehensive, trauma-informed services for survivors; and public policy initiatives.

Washington State Coalition Against Domestic Violence works to end domestic violence through advocacy and action for social change.

Each organization has a strong interest in ensuring that survivors of sexual and domestic violence have full access to reproductive health options, including abortion. These experts are united in their opposition to Mississippi's "Gestational Age Act," which bans abortion at 15 weeks at grave risk to the lives and health of pregnant people (the "Ban" or "15-week ban"). The Ban is an affront to the rights of all people who can become pregnant but will impact disproportionately survivors of IPV—especially survivors of color.

SUMMARY OF ARGUMENT

The Ban and the State's brief in defense of it reflect a privileged view of reality that disregards the lived experience of survivors of intimate partner violence ("IPV")—especially survivors of color.[2] The suggestion that access to abortion is no longer necessary because "on a wide scale women [now] attain both professional success and a rich family life," and contraceptives are readily available to anyone who wants them is, at best, grossly ignorant of the reality on the ground for pregnant people—even more so for survivors of IPV.[3]

IPV affects nearly one third of women[4] in the United States.[5] Perpetrators of IPV maintain power within their relationships by undermining their partners' economic security, health, safety, and autonomy to make reproductive decisions.

Survivors of color stand at the intersection of multiple forms of state-sanctioned oppression based on race, gender, sexual orientation, immigration, and

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[2] "Intimate partner violence" is abuse in intimate relationships. *See* Claudia Garcia-Moreno et al., World Health Organization, *Understanding and Addressing Violence Against Women: Intimate Partner Violence* 1, n.1 (2012), http://apps.who.int/iris/bitstream/10665/77432/1/WHO_RHR_12.36_eng.pdf.

[3] Br. for Pet'rs 4–5.

[4] People with a range of gender identities experience IPV and become pregnant. This brief uses gender-neutral terms unless referencing a quotation or a research population.

[5] Michele C. Black et al., Ctrs. For Disease Control & Prev., Nat'l Ctr. for Injury Prev. & Control, *The National Intimate Partner and Sexual Violence Survey: 2010 Summary Report* 2 (2011), http://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf (women are more likely than men to experience IPV).

socioeconomic status,[6] all of which raise systemic inequities that make them particularly vulnerable to IPV. As difficult as it is for survivors of IPV both to escape abusive relationships and exercise their reproductive autonomy, these systemic inequities—in access to healthcare, employment, housing, education and many other resources necessary to secure the basic necessities of living—make it even more challenging for survivors of color.[7]

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[6] Federal and state policies historically sanctioned racism and discrimination through redlining and segregated neighborhoods, tax policies that prevent marginalized communities from accumulating wealth, restricted access to health care, underfunding of public education and unequal disciplinary policies, and barriers to equal pay for equal work. Calandra Davis & Sara Miller, *Dream Deferred: The Lasting Legacy of Racist Redlining in Mississippi and the Deep South*, Miss. Free Press (Apr. 8, 2021), https://www.mississippifreepress.org/11089/a-dream-deferred-the-lasting-legacy-of-racist-redlining-in-the-deep-south/; Dorothy A. Brown, *The Whiteness of Wealth: How the Tax System Impoverishes Black Americans – and How We Can Fix It* 12–17 (2021); Rugaiijah Yearby, *The Impact of Structural Racism in Employment and Wages on Minority Women's Health*, Am. Bar Ass'n, https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/the-state-of-healthcare-in-the-united-states/minority-womens-health/ (last visited Sept. 13, 2021); Roby Chatterji, *Fighting Systemic Racism in K-12 Education: Helping Allies Move from the Keyboard to the Schoolboard*, Ctr. for Am. Prog. (July 8, 2020), https://www.americanprogress.org/issues/education-k-12/news/2020/07/08/487386/fighting-systemic-racism-k-12-education-helping-allies-move-keyboard-school-board/; Nat'l P'ship for Women & Fams., *Fact Sheet: Black Women and the Age Gap* (2021), https://www.nationalpartnership.org/our-work/resources/economic-justice/fair-pay/african-american-women-wage-gap.pdf.

[7] Natalie J. Sokoloff & Ida Dupont, *Domestic Violence at the Intersections of Race, Class, and Gender: Challenges and*

Beyond the practical challenges that survivors of color face due to a lack of resources, would-be perpetrators may be more likely to target those from marginalized communities precisely because they fall at the bottom of the racial hierarchy and power structure.[8] "Sexual violence is about domination—across race, nation, class, gender, and other dimensions of inequality . . . . [S]exual violence does not only result from individual deviancy. Rather, it is structurally organized around political ends."[9] Stereotypes that fetishize women of color, paint them as sex objects and devalue their humanity are ubiquitous in the United States.[10] To make matters worse, survivors of color often cannot rely on government and non-profit services and programs (such as the police, the courts and the healthcare system) to keep them safe.[11]

The less support survivors have, the easier it is for abusers to exert control over them. As a result, four in ten Black and Native American women, and one in two

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Contributions to Understanding Violence Against Marginalized Women in Diverse Communities, 11 Violence Against Women 38, 44 (2005).

[8] *Id.* at 43.

[9] Elizabeth A. Armstrong et al., *Silence, Power, and Inequality: An Intersectional Approach to Sexual Violence*, 44 Ann. Rev. Soc. 99, 101 (2018).

[10] Jillian Hernández, *Racialized Sexuality: From Colonial Product to Creative Practice*, Oxford Rsch. Encyc. of Liter. 1 (2020) (discussing "pervasive tropes" of "the sexual excess of Native and African peoples," "the sexual submissiveness of Asian peoples," and "insatiable lust and spitfire of Black and Latina [peoples]" are based on centuries-old "colonial and racist underpinnings").

[11] *See infra* § A.2.

multiracial women, will be raped, physically assaulted, or stalked by an intimate partner in their lifetime.[12] Women in Mississippi suffer IPV at rates even higher than the national average.[13]

Not only do survivors of IPV face increased barriers to accessing care, they also are more likely to be forced into unintended pregnancy, to need abortions, and risk being trapped in violent relationships if they are unable to access abortion care. The consequences of such entrapment range from heightened abuse during pregnancy to being killed.[14] Here again, the risks are even greater for survivors from marginalized communities, who already experience disproportionately high rates of unintended pregnancy and dramatically increased health risks associated with unintended pregnancy.[15] Indeed, rates of maternal mortality among pregnant people of color in the United States and Mississippi in particular, far exceed that of other wealthy nations.[16]

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[12] Black et al., *supra* note 5, at 3.

[13] Sharon G. Smith et al., Ctrs. for Disease Control & Prev., Nat'l Ctr. for Injury Prev. & Control, *The National Intimate Partner and Sexual Violence Survey (NISVS): 2010-2012 State Report* 49 (2017), https://www.cdc.gov/violenceprevention/pdf/nisvs-statereportbook.pdf.

[14] Alexia Cooper & Erica L. Smith, U.S. Dep't of Just., Bureau of Just. Stats., *Homicide Trends in the United States, 1980-2008, Annual Rates for 2009 and 2010*, at 10 (2011), http://bjs.gov/content/pub/pdf/htus8008.pdf.

[15] Theresa Y. Kim et al., *Racial/Ethnic Differences in Unintended Pregnancy: Evidence From a National Sample of U.S. Women*, 50 Am. J. Preventative Med. 427, 427 (2016).

[16] Roosa Tikkanen et al., *Maternal Mortality and Maternity Care in the United States Compared to 10 Other Developed Countries*,

The global COVID-19 pandemic has further undermined access to reproductive health care particularly for communities of color, thereby increasing the risk of unintended pregnancy, as well as the risks associated with carrying an unintended pregnancy to term.[17]

Precedent dictates that the Court consider how the 15-week ban will impact not just the privileged few, but all pregnant people. The 15-week ban, if upheld, will compound the control that abusers already exert over survivors. It will force a significant number of pregnant people to carry their pregnancies to term against their will, at great risk to their lives and health. Others will be forced to resort to unsafe methods, or to self-manage their abortions without the benefit of medical assistance. The suggestion that the health of pregnant people is somehow served by this law reflects a callous disregard for the devastating impact the Ban will have on survivors of color in particular, who will suffer disproportionately its consequences.

States should be providing support to survivors that enable them to regain control over their lives and striving to atone for the centuries of racial and gender

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Commonwealth Fund (Nov. 18, 2020), https://www.commonwealthfund.org/publications/issue-briefs/2020/nov/maternal-mortality-maternity-care-us-compared-10-countries; Charlene Collier et al., Miss. State Dep't of Health, *Mississippi Maternal Mortality Report 2013-2016*, at 5 (2019), https://msdh.ms.gov/msdhsite/index.cfm/31,8127,299,pdf/MS_Maternal_Mortality_Report_2019_Final.pdf.

[17] Elise Andaya & Rajani Bhatia, *The Impact of COVID-19 on Minority Disparities in Sexual and Reproductive Health Care in New York State* 1 (2021).

oppression that have left survivors of color especially vulnerable to IPV and unintended pregnancy, not doubling down on that oppression by further restricting their reproductive autonomy.

ARGUMENT

A. Violence and coercive control by abusers coupled with systemic inequities leave survivors from marginalized communities vulnerable to unintended pregnancy and undermine their reproductive autonomy.

This Court has long recognized that abortion restrictions are particularly harmful to survivors of IPV. *See Planned Parenthood of Se. Pa. v. Casey*, 505 U.S. 833, 893–94 (1992) ("We must not blind ourselves to the fact that the significant number of women who fear for their safety and the safety of their children are likely to be deterred from procuring an abortion as surely as if the Commonwealth had outlawed abortion in all cases.").

Coercive control by abusers and systemic failures that further disempower survivors undermine the ability of survivors to escape abusive relationships and to exercise their reproductive autonomy. As a result, survivors also face a heightened risk of unintended pregnancy, which poses particularly significant risks to their health and safety.

1. Abusers use violence and "coercive control" to create the conditions for unintended pregnancy.

IPV typically involves more than physical harm. Abusive partners also exert "coercive control" over their partners, including undermining their partners' reproductive autonomy. "Coercive control" describes a variety of tactics that an intimate partner uses to undermine the other partner's physical safety, economic security, and sense of self-worth.[18] These tactics include isolating the abused person from family and friends and monitoring their whereabouts and relationships.[19] Abusers may limit their partners' access to financial resources and track their use of transportation and time away from home.[20] They frequently threaten to harm or kidnap children as a means of control.[21]

Economic control is another aspect of coercive control and may include sabotaging employment or severely restricting access to money.[22] Together, these actions position the abuser to use violence with

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[18] Elizabeth M. Schneider, *Battered Women and Feminist Lawmaking* 61 (2000).

[19] Karla Fischer et al., *The Culture of Battering and the Role of Mediation in Domestic Violence Cases*, 46 SMU L. Rev. 2117, 2126–27 (1993).

[20] *Id.* at 2121–22, 2131–32; *see also* Leigh Goodmark, *A Troubled Marriage: Domestic Violence and the Legal System* 42 (2012).

[21] Karla Fischer et al., *supra* note 19, at 2122–23.

[22] Goodmark, *supra* note 20, at 42; *see also* Julie Goldscheid, *Gender Violence and Work: Reckoning with the Boundaries of Sex Discrimination Law*, 18 Colum. J. Gender & L. 61, 75–77 (2008).

relative impunity because the abused person's support system, economic security, and resources to seek safety from abuse are severely compromised.

2. Systemic inequities compound the control that abusers exert over survivors from marginalized communities, leaving them even more vulnerable to IPV.

Survivors from marginalized communities face systemic inequities that further limit their access to the resources necessary to seek safety from abuse and exercise reproductive autonomy.[23] For example, compared to every dollar paid to white men, Latinas are paid 55 cents, Native American women are paid 60 cents, Black women are paid 63 cents, and some ethnicities of Asian and Pacific Islander women are

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[23] As noted by the district court, Mississippi has the greatest share of women living in poverty of any state in the country. *Jackson Women's Health Org. v. Currier*, 349 F. Supp. 3d 536, 542 n.36 (S.D. Miss. 2018); Inst. for Women's Pol'y Rsch., *Status of Women in the States, Fact Sheet #R505*, at 1 (2018), https://statusofwomendata.org/wp-content/themes/witsfull/factsheets/economics/factsheet-mississippi.pdf. Relatedly, women of color experience disproportionately high rates of sexual assault—by intimate partners and in general. *See* U.S. Dep't of Just. Off. of Victims of Crime, *2018 NCVRW Resource Guide: Intimate Partner Violence Fact Sheet* (2018), https://ovc.ojp.gov/sites/g/files/xyckuh226/files/ncvrw2018/info_flyers/fact_sheets/2018NCVRW_IPV_508_QC.pdf (noting more than 45 percent of American Indian, Alaska Native, Black, and multi-racial women experience IPV; the same is true for 34 percent of Hispanic women and 18 percent of Asian/Pacific Islander women).

paid as little as 52 cents.[24] Women of color "have higher rates of many preventable diseases and chronic health conditions," due to access barriers, environmental factors (*i.e.*, forced relocation of Indigenous communities to polluted lands), and residential segregation that isolates, for example, Black people in neighborhoods that are "over-policed and lack access to healthy food options, healthcare resources, green spaces, clean, air, clean water, recreational facilities, and safe schools," among other factors.[25] Still, women of color are significantly less likely to have health insurance, especially during their reproductive age.[26] Mississippi in particular has among the highest uninsured rates for women in the nation, with the rates even higher among women of color as compared to white women.[27] Nationwide, due

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[24] Nat'l P'ship for Women & Fams., *Quantifying America's Gender Wage Gap by Race/Ethnicity*, at 1–3 (2021), https://www.nationalpartnership.org/our-work/resources/economic-justice/fair-pay/quantifying-americas-gender-wage-gap.pdf.

[25] Nat'l P'ship for Women & Fams., *Despite Significant Gains, Women of Color Have Lower Rates of Health Insurance Than White Women*, at 1–2 (Apr. 2019), https://www.nationalpartnership.org/our-work/resources/health-care/women-of-color-have-lower-rates-of-health-insurance-than-white-women.pdf; Monika Batra Kashyap, *U.S. Settler Colonialism, White Supremacy, and the Racially Disparate Impacts of COVID-19*, 11 Cal. Law. Rev. Online 517, 521, 524 (2020).

[26] Nat'l P'ship for Women & Fams., *supra* note 25, at 1–2.

[27] Kaiser Fam. Found., *State Health Facts: Health Insurance Coverage of Women 19–64* (2019), https://www.kff.org/other/state-indicator/health-insurance-coverage-of-nonelderly-adult-women/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D; Ctr. for Miss. Health Pol'y, *A Profile of Health Insurance Coverage for Mississippi Adults: 2019 Data*, at 13 (Mar. 2021),

to disparities in pay as well as in leasing and lending practices, women of color are more likely to be behind on their rent or mortgage payment and be burdened by subprime mortgages, leaving them more susceptible to foreclosure and debt.[28] Additionally, Black, Native American, and Latina women trail white women in attaining higher education, with half as many Native American and Latina women (15%) attaining a bachelor's degree as compared to white women (32%).[29] With limited access to stable jobs, affordable healthcare, stable housing, and higher education, it is nearly impossible to summon the resources necessary to escape abusive relationships and/or meaningfully exercise one's reproductive autonomy.

Compounding this lack of access, the resources available to survivors of IPV often are not culturally or linguistically appropriate.[30] Investigations by law enforcement are not as thorough when the survivor

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https://mshealthpolicy.com/wp-content/uploads/2021/06/Profile-of-Adult-Coverage-in-2019-Nov-2021.pdf.

[28] Nat'l Women's Law Ctr., *Gender and Racial Justice in Housing*, at 1–2 (2021), https://nwlc.org/wp-content/uploads/2021/02/Gender-and-Racial-Justice-in-Housing.pdf.

[29] *Spotlight on Women of Color: Poverty & Opportunity Data*, Inst. for Women's Pol'y Rsch., https://statusofwomendata.org/women-of-color/spotlight-on-women-of-color-poverty-opportunity-data/ (last visited Sept. 15, 2021).

[30] Nimish R. Ganatra, *The Cultural Dynamic in Domestic Violence: Understanding the Additional Burdens Battered Immigrant Women of Color Face in the United States*, 2 J. L. Soc'y 109, 112–13 (2001); *see also* Leslye E. Orloff et al., *Battered Immigrant Women's Willingness to Call for Help and Police Response*, 13 UCLA Women's L.J. 43, 55 (2003).

does not speak fluent English.[31] Survivors may not have access to interpreters or may rely on friends or family who may know or be related to the perpetrator to serve as informal interpreters. All of these factors impede a victim's ability to access critical services.[32]

Immigrant survivors face the additional fear of deportation if they turn to the authorities for help.[33] As a result, immigrant women are far less likely to report sexual violence.[34] And many immigrants—unfamiliar with U.S. law—do not know that IPV is a crime.[35]

Moreover, many survivors of color lack trust in the criminal justice system due to the long history of excessive law enforcement intervention, high frequency of police brutality, and the mass criminalization of people in their communities.[36] Beyond concerns for themselves, survivors of color

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[31] Ganatra, *supra* note 30, at 125–26.

[32] *Id.*

[33] Jennifer Medina, *Too Scared to Report Sexual Abuse. The Fear: Deportation*, N.Y. Times (Apr. 30, 2017), https://www.nytimes.com/2017/04/30/us/immigrants-deportation-sexual-abuse.html.

[34] *Id.*; *see also* Tom Dart, *Fearing Deportation, Undocumented Immigrants Wary of Reporting Crimes*, Guardian (Mar. 23, 2017), https://www.theguardian.com/us-news/2017/mar/23/undocumented-immigrants-wary-report-crimes-deportation.

[35] Ganatra, *supra* note 30, at 112–13.

[36] Devon W. Carbado, *Blue-on-Black Violence: A Provisional Model of Some of the Causes*, 104 Geo. L. J. 1479 (2016); *see also* Andrea J. Ritchie, *#SayHerName: Racial Profiling and Police Violence Against Black Women*, 41 Harbinger 187, 196 (2016) (Black women, especially transgender and gender non-conforming Black women, are profiled by police and subjected to sexual harassment, violence, and neglect.).

may fear turning a member of their community over to an oppressive criminal justice system.[37] Even when survivors of color do report, they are less likely to be believed and supported.[38]

American Indian and Alaska Native women who report sexual violence face additional obstacles. They are caught in a jurisdictional maze that federal, state, and tribal police struggle to sort out.[39] Negotiating who has jurisdiction can cause significant delays, resulting in such confusion that no one intervenes.[40]

Again, the less access survivors have to the resources necessary to escape an abusive relationship

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[37] David Frazee, *An Imperfect Remedy for Imperfect Violence: The Construction of Civil Rights in the Violence Against Women Act*, 1 Mich. J. Gender & L. 163, 235–73 (1993) (quoting Angela Harris: "Black women have simultaneously acknowledged their own victimization and the victimization of black men by a system that has consistently ignored violence against women while perpetrating it against men.").

[38] Shannon B. Harper et al., *Interactions Between Law Enforcement and Women of Color at High-Risk of Lethal Intimate Partner Violence: An Application of Interpersonal Justice Theory*, 34 Crim. Just. Stud. 7 (2021) ("[O]fficers often patronized [women-of-color] participants . . . doubted the validity of their abuse accounts, and/or were reluctant to respond at a pace in kind to the immense danger and crisis communicated by participants.").

[39] *Maze of Injustice: A Summary of Amnesty International's Findings*, Amnesty Int'l (Aug. 8, 2011), https://www.amnestyusa.org/reports/maze-of-injustice/.

[40] According to a 2010 study by the Government Accountability Office, federal prosecutors decline to prosecute 67 percent of sexual abuse cases. David C. Maurer, Homeland Security & Just., *GAO Letter Re: U.S. Department of Justice Declinations of Indian Country Criminal Matters* (Dec. 13, 2010), https://www.gao.gov/assets/gao-11-167r.pdf.

and to programmatic support from government and non-profit sources, the easier it is for abusers to exert control over survivors and the more difficult it is for them to exercise their reproductive autonomy.

3. Survivors of IPV experience disproportionately high rates of forced pregnancy resulting from rape.

Compounding the various means by which abusers exert control over survivors to entrap them in the relationship is the increased likelihood of severe violence—including homicide—when the survivor seeks to leave.[41] Indeed, separation is the most dangerous time for a survivor[42]—a danger that is exacerbated if the survivor is pregnant[43] or has children with the abuser.[44]

It is not surprising then, that abusers also frequently use sexual attacks and reproductive

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[41] Jane K. Stoever, *Enjoining Abuse: The Case for Indefinite Protection Orders*, 67 Vand. L. Rev. 1015, 1025 (2014).

[42] Shannon Catalano, U.S. Dep't of Just., Bureau of Just. Stats., *Special Report: Intimate Partner Violence, 1993-2010*, at 6 (Sept. 29, 2015), http://www.bjs.gov/content/pub/pdf/ipv9310.pdf; *see also* Jacquelyn Campbell et al., *Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study*, 93 Am. J. Pub. Health 1089 (2003).

[43] Merle H. Weiner, *A Parent-Partner Status for American Family Law* 331–32 (2015).

[44] Robert Walker et al., *An Integrative Review of Separation in the Context of Victimization: Consequences and Implications for Women*, 5 Trauma, Violence, & Abuse 143, 161 (2004).

coercion to exert power over their partners.[45] Rape frequently co-occurs with IPV.[46] Survivors who are raped by intimate partners are more likely to suffer multiple rapes and more likely to suffer acute and chronic physical and reproductive injuries.[47] In addition to these injuries, survivors of rape risk forced pregnancy.[48] Approximately one in four survivors who are raped by their partners become pregnant, a rate five times the national average for rape-related pregnancy.[49]

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[45] Am. Coll. of Obstetricians & Gynecologists, Comm. on Health Care for Underserved Women, *Committee Opinion No. 554: Reproductive and Sexual Coercion* 2 (Feb. 2013), https://www.acog.org/-/media/project/acog/acogorg/clinical/files/committee-opinion/articles/2013/02/reproductive-and-sexual-coercion.pdf.

[46] Meredith E. Bagwell-Gray et al., *Intimate Partner Sexual Violence: A Review of Terms, Definitions, and Prevalence*, 16 Trauma, Violence, & Abuse 316, 317 (2015).

[47] Michelle J. Anderson, *Marital Immunity, Intimate Relationships, and Improper Inferences: A New Law on Sexual Offenses by Intimates*, 54 Hastings L. J. 1465, 1511–12 (2003).

[48] Judith McFarlane, *Pregnancy Following Partner Rape: What We Know and What We Need to Know*, 8 Trauma, Violence, & Abuse 127, 128 (2007).

[49] *Id.* at 129–30.

4. Reproductive coercion by abusers also leads to higher rates of unintended pregnancy, exacerbating the already high rates of unintended pregnancy among communities of color.

A significant number of women and girls in violent relationships experience reproductive coercion resulting in unintended pregnancies.[50] "Reproductive coercion" describes a spectrum of conduct, ranging from rape to threats of physical harm to sabotaging a partner's birth control, used primarily to force pregnancy.[51] "Survivors of IPV face compromised decision-making regarding, or limited ability to enact, contraceptive use and family planning . . . ."[52]

Abusers may interfere with their partners' contraceptive use by discarding or damaging contraceptives, removing prophylactics during sex without consent, forcibly removing internal use contraceptives, or retaliating against or threatening

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[50] Elizabeth Miller et al., *Pregnancy Coercion, Intimate Partner Violence, and Unintended Pregnancy*, 81 Contraception 316 (2010); *see also* Anne M. Moore et al., *Male Reproductive Control of Women Who Have Experienced Intimate Partner Violence in the United States*, 70 Soc. Sci. & Med. 1737 (2010).

[51] Miller et al., *supra* note 50, at 316–17; Moore et al., *supra* note 50, at 1738; *see also Committee Opinion No. 554*, *supra* note 44, at 411–15.

[52] Miller et al., *supra* note 50, at 316–17; *see also* Ann L. Coker, *Does Physical Intimate Partner Violence Affect Sexual Health? A Systematic Review*, 8 Trauma, Violence, & Abuse 149, 151–53 (2007).

harm.[53] As a result of these and other factors, survivors of IPV are significantly less likely to be able to use contraceptives as compared to their non-victimized counterparts.[54] While this reality seems to be lost on the State and their *amici*, the availability of contraception means little if one cannot access it.

It is hardly surprising, therefore, that the presence of reproductive coercion in abusive relationships dramatically increases the risk of unintended pregnancy.[55] When the National Domestic Violence Hotline surveyed over 3,000 women seeking help, more than 25 percent reported that their abusive partner sabotaged birth control and tried to coerce pregnancy.[56]

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[53] Coker, *supra* note 52, at 151–53 (2007); *see also* Miller et al., *supra* note 50, at 319; *see also* Lauren Maxwell et al., *Estimating the Effect of Intimate Partner Violence on Women's Use of Contraception: A Systematic Review and Meta-Analysis*, 10 PLoS ONE e0118234 (2015).

[54] Megan Hall et al., *Associations Between Intimate Partner Violence and Termination of Pregnancy: A Systematic Review and Meta-Analysis*, 11 PLoS Med. e1001581 (2014); *see also Maxwell* et al., *supra* note 53.

[55] Elizabeth Miller et al., *Editorial: Reproductive Coercion: Connecting the Dots Between Partner Violence and Unintended Pregnancy*, 81 Contraception 457, 457 (2010) (reproductive coercion is associated with a range of negative health outcomes, including poor mental health, unintended pregnancy, and sexually transmitted infections).

[56] National Domestic Violence Hotline, *1 in 4 Callers Surveyed at the Hotline Report Birth Control Sabotage and Pregnancy Coercion*, Hotline News (Feb. 18, 2011), http://www.thehotline.org/2011/02/1-in-4-callers-surveyed-at-the-hotline-report-birth-control-sabotage-and-pregnancy-coercion/; *see also* Heike Thiel de Bocanegra et al., *Birth Control Sabotage and Forced Sex: Experiences Reported by Women in*

Systemic inequities further compound the risks associated with reproductive coercion. Marginalized communities already experience disproportionately high rates of unintended pregnancy,[57] largely due to a lack of access to sexual health information,[58] health insurance, and affordable contraceptives.[59] For many immigrant survivors, federal law denies health care coverage for their first five years of residency.[60] Moreover, recent immigrants often do not know

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Domestic Violence Shelters, 16 Violence Against Women 601, 601–12 (2010).

[57] Kim et al., *supra* note 15, at 427.

[58] Amaranta D. Craig et al., *Exploring Young Adults' Contraceptive Knowledge and Attitudes: Disparities by Race/Ethnicity and Age*, 24 Women's Health Issues e281, e287 (2014) (citations omitted); *see also* Christine Metusela et al., *"In My Culture, We Don't Know Anything About That": Sexual and Reproductive Health of Migrant and Refugee Women*, 24 Int'l J. Behav. Med. 836, 839–40 (2017).

[59] Christine Dehlendorf et al., *Disparities in Family Planning*, 202 Am. J. Obstetrics & Gynecology 214, 215 (2010); Michele Troutman et al., *Are Higher Unintended Pregnancy Rates Among Minorities a Result of Disparate Access to Contraception?*, 5 Contraceptive & Reprod. Med. 1, 3 (2020); Sadia Haider et al., *Reproductive Health Disparities: A Focus on Family Planning and Prevention Among Minority Women and Adolescents*, 2 Glob. Advances Health & Med. 94, 96 (2013); Kelli Stidham Hall et al., *Determinants of and Disparities in Reproductive Health Service Use Among Adolescent and Young Adult Women in the United States 2002-2008*, 102 Am. J. Pub. Health 359, 366 (2012).

[60] *See* Alison Siskin, et al., Cong. Rsch. Serv., *Treatment of Noncitizens Under the Patient Protection and Affordable Care Act* 7 (2011), https://sgp.fas.org/crs/misc/R43561.pdf (explaining that in passing the Affordable Care Act, Congress maintained the five-year residency requirement for eligibility for Medicaid).

where, how, and whether they can access health care.[61]

For survivors of color who are able to access health care, implicit bias, stereotyping by providers, and disregard for cultural experiences dramatically undermine the quality of medical care they receive.[62] This lack of culturally appropriate care may exacerbate existing mistrust in the medical profession given its long history of forced medical experimentation and racial mistreatment.[63] As the Mississippi State Department of Health has observed, the result is that a disproportionate burden of disease, illness, and poor health outcomes are borne by those who already experience systemic oppression because

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[61] Leslye Orloff & Oliva Garcia, Nat'l Immigrant Women's Advoc. Project, *Dynamics of Domestic Violence Experienced by Immigrant Victims 2, in Breaking Barriers: A Complete Guide to Legal Rights and Resources for Battered Immigrants* (2013), http://library.niwap.org/wp-content/uploads/2015/pdf/FAM-Manual-Full-BreakingBarriers07.13.pdf.

[62] Madeline Y. Sutton et al., *Racial and Ethnic Disparities in Reproductive Health Services and Outcomes, 2020*, 137 Obstet. Gynecol. 225, 229–30 (2021) (detailing how "racism and biases . . . contribute to reproductive health disparities" among—particularly—"Black, Hispanic, and Native American women in the United States").

[63] Michele K. Evans et al., *Diagnosing and Treating Systemic Racism*, 383 The New Eng. J. of Med. 274, 274 (2020) (explaining that a "long and troubled history" of using people of color, particularly slaves, as "economic security for physicians and clinical material" for research and training "has permeated the physician-patient relationship with mistrust" for decades).

of their race, ethnicity, gender, immigration status, sexual orientation, and geographic location.[64]

B. Coerced pregnancy and forced childbearing carry significant risks to survivors of IPV, risks that are even greater for survivors of color.

1. Coercive control by abusers and systemic inequities prevent pregnant survivors of IPV from receiving adequate prenatal care.

Every pregnancy carries some level of risk. Unintended pregnancies, however, have significantly more health consequences.[65] This is especially problematic in Mississippi, which has the highest rate of unintended pregnancy in the nation at 44.6 percent.[66]

And the problem is compounded for survivors of IPV. It is common for abusers to prevent survivors

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[64] *Health Equity in Mississippi*, Miss. State Dep't of Health, https://msdh.ms.gov/msdhsite/_static/44,0,236.html (last visited Sept. 18, 2021).

[65] McFarlane, *supra* note 48, at 130 (noting that women abused during pregnancy are more likely to experience pregnancy complications and poor birth outcomes, including miscarriage or stillbirth); *see also* Pub. Health Impact, *Unintended Pregnancy*, America's Health Rankings: United Health Found., https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/unintended_pregnancy/state/U.S (last visited Sept. 15, 2021) (unintended pregnancies are "associated with adverse health outcomes for mother and baby, including: low birthweight").

[66] *Unintended Pregnancy*, *supra* note 65.

from making or keeping medical appointments, or from having private conversations with health care providers.[67] As a result, survivors of IPV are less likely to receive prenatal care and more likely to miss doctors' appointments than pregnant people in non-violent relationships.[68] Survivors of color are further burdened by the effects of transgenerational racism and poverty on their health, making them especially vulnerable to pregnancy-related complications.[69] Indeed, the rate of maternal mortality of Black women in Mississippi is nearly three times that of white women.[70]

Not only do pregnant people in abusive relationships face increased health risks associated with pregnancy itself, the violence they suffer is likely to increase both in frequency and intensity during

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[67] Karen Oehme et al., *Unheard Voices of Domestic Violence Victims: A Call to Remedy Physician Neglect*, 15 Geo. J. Gender & L. 613, 633 (2014).

[68] Gunnar Karakurt et al., *Mining Electronic Health Records Data: Domestic Violence and Adverse Health Effects*, 3 J. of Fam. Violence 79–87 (2016).

[69] Cynthia Prather et al., *Racism, African American Women, and Their Sexual and Reproductive Health: A Review of Historical and Contemporary Evidence and Implications for Health Equity*, 2 Health Equity 249, 253 (2018).

[70] *Mississippi Maternal Mortality Report 2013-2016*, Miss. State Dep't of Health, at 5, https://msdh.ms.gov /msdhsite/_static/resources/8127.pdf (last updated Mar. 2021).

pregnancy.[71] In fact, the leading cause of maternal death in the United States is homicide.[72]

2. Having a child with an abusive partner makes it more difficult to leave, especially for survivors of color.

If a survivor who is coerced into pregnancy goes on to have a child with the abuser, it becomes even more difficult to sever that abusive relationship.[73] The abused parent must navigate the legal system to obtain custody and ensure protective parenting arrangements, commonly without legal advice or representation.[74] Violent partners have learned to use this system to their advantage; abusive fathers are more likely to seek child custody than non-abusive

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[71] Beth A. Bailey, *Partner Violence During Pregnancy: Prevalence, Effects, Screening, and Management*, 2 Int'l J. Women's Health 183 (2010); *see also* Julie A. Gazmararian et al., *Prevalence of Violence Against Pregnant Women*, 275 J. of Am. Med. Ass'n 1915, 1918 (1996).

[72] Megan Hall et al., *supra* note 54.

[73] *See, e.g.*, Naomi R. Cahn, *Civil Images of Battered Women: The Impact of Domestic Violence on Child Custody Decisions*, 44 Vand. L. Rev. 1041, 1051 (1991).

[74] *See* Legal Servs. Corp., *Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans* 25 (2009), http://mlac.org/wp-content/uploads/2015/08/Documenting-the-Justice-Gap.pdfhttp://www.americanbar.org/content/dam/aba/migrated/marketresearch/PublicDocuments/JusticeGaInAmerica2009.authcheckdam.pdf (an extremely high percentage of litigants in family law cases appear pro se).

fathers, and when they do, they succeed in gaining it more than 70 percent of the time.[75]

At the same time, the child welfare system wrongly punishes survivors—especially survivors of color—for failure to protect their children from IPV.[76] This "damned if you do, damned if you don't" legal response undermines the civil rights of survivors and provides abusive partners with yet another weapon of control.[77] Again, immigrant women have the added fear that if they disclose the abuse in a legal proceeding they may be separated from their children or deported, a common threat used by abusers.[78]

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[75] Am. Bar Ass'n Comm'n on Domestic Violence, *10 Custody Myths and How to Counter Them*, 4 ABA Comm'n on Domestic Violence Quarterly E-Newsletter 3 (July 2006), https://xyonline.net/sites/xyonline.net/files/ABACustodymyths.pdf.

[76] Leigh Goodmark, *Law is the Answer? Do We Know That for Sure?: Questioning the Efficacy of Legal Interventions for Battered Women*, 23 St. Louis Univ. Pub. L. Rev. 7, 23 (2004).

[77] *Nicholson v. Williams*, 203 F. Supp. 2d 153, 248, 250 (E.D.N.Y. 2002) (finding that New York City's policy of removing children from their homes solely because their mothers suffered domestic violence violated the Fourteenth Amendment).

[78] Andaya & Bhatia, *supra* note 17, at 7.

C. Survivors need meaningful access to abortion.

1. There is a strong association between IPV and pregnancy termination.

Countless studies have found a strong association between IPV and pregnancy termination.[79] A survivor may choose to terminate a pregnancy that results from rape or coercion[80] or out of fear of increased violence and/or being trapped in the relationship if the pregnancy continues.[81] Indeed, research shows that having a baby with the abuser is likely to result in ongoing violence.[82] Conversely, "having an abortion was associated in a reduction over time in physical violence . . . ."[83]

A survivor of IPV also may terminate a pregnancy to avoid exposing a child to violence.[84] Many survivors

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[79] *See* Megan Hall et al., *supra* note 54 (identifying 74 studies from the United States and around the world that demonstrated a correlation between IPV and abortion).

[80] Melisa M. Holmes et al., *Rape-Related Pregnancy: Estimates and Descriptive Characteristics from a National Sample of Women*, 175 Am. J. Obstetrics & Gynecology 320, 322 (1996) (50 percent of women pregnant through rape had abortions).

[81] Sarah CM Roberts et al., *Risk of Violence from the Man Involved in the Pregnancy After Receiving or Being Denied an Abortion*, 12 BMC Med. 1, 2, 5 (2014).

[82] *Id.* at 5.

[83] *Id.*

[84] Karuna S. Chibber et al., *The Role of Intimate Partners in Women's Reasons for Seeking Abortion*, 24 Women's Health Issues e131, e134 (2014).

have children whom they already struggle to protect.[85] Research has shown that having a child, or another child, with an abusive partner increases the risks of poverty and homelessness upon leaving the abuser.[86]

Some women in violent relationships may be coerced into the abortion decision.[87] Far more often, however, the pregnancy itself and continuing the pregnancy are coerced,[88] as this is a more powerful tool for the abuser to maintain long-term control over an intimate partner. Abortion opponents argue that the risk of being coerced into having an abortion is a reason to further limit the bodily autonomy of survivors.[89] Both types of coercion—to carry an unwanted pregnancy to term or to have an abortion—are a violation of the

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[85] *See, e.g.*, Joan S. Meier, *Domestic Violence, Child Custody, and Child Protection: Understanding Judicial Resistance and Imagining the Solutions*, 11 Am. U. J. Gender Soc. Pol'y & L. 657 (2003) (describing the skepticism that protective parents, particularly mothers, face when seeking to protect their children from abuse through the family law system).

[86] Carmela DeCandia et al., *Closing the Gap: Integrating Services for Survivors of Domestic Violence Experiencing Homelessness*, The National Center on Family Homelessness 2 (2013), https://www.air.org/sites/default/files/downloads/report/Closing%20the%20Gap_Homelessness%20and%20Domestic%20Violence%20toolkit.pdf.

[87] *See* Chibber et al., *supra* note 84, at e132.

[88] *Id.* at e136.

[89] *See, e.g.*, Amicus Brief of The American Center for Law and Justice in Support of Petitioners at 22, *Dobbs v. Jackson Women's Health Organization*, No. 19-1392 (July 17, 2020); Brief of Amici Curiae Advancing American Freedom, et al., in Support of Petitioners at 20, *Dobbs v. Jackson Women's Health Organization*, No. 19-1392 (July 29, 2021).

dignity and autonomy of survivors.[90] The solution, however, is not to disempower and demean survivors by further depriving them of control over their own bodies. If Mississippi is concerned about abusers coercing survivors into having abortions, its response should target the abusive behavior, not the rights of survivors.

2. Survivors of IPV face significant barriers to accessing abortion care.

Obtaining abortion services requires a survivor to locate a provider, find transportation and lodging, gather financial resources, arrange childcare for existing children, take time off from work, and comply with any applicable waiting period—all while suffering the cognitive, psychological, and physiological effects of significant trauma. Worse, a survivor must accomplish all this without the abuser finding out.[91]

All of this requires substantial resources, which abortion patients often lack. Abortion patients disproportionately work in jobs with low wages and

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[90] Elizabeth M. Schneider et al., *Domestic Violence and the Law: Theory and Practice* 188 (3d ed. 2013).

[91] Findings of Fact and Conclusions of Law at 28, *Whole Women's Health All. v. Rokita,* No. 1:18-cv-01904 (S.D. Ind. Aug. 10, 2021), ECF No. 425 (The burdens of accessing abortion care "intensify for women experiencing intimate partner violence, who often face the necessity of hiding their pregnancies from their perpetrators."); *see also* Megan Hall et al., *supra* note 54 (noting that survivors of IPV are three times more likely than others seeking abortion care to conceal that they are seeking services).

little flexibility (if they are working at all).[92] Mississippi has among the highest rates of poverty in the nation, with dramatically higher rates of poverty among women of color.[93] To make matters worse, the Hyde Amendment, a yearly rider on the Congressional appropriations bill for the U.S. Department of Health and Human Services, prohibits the use of federal money including Medicaid funds for abortion care.[94] The Hyde Amendment also applies to Indian Health Services ("IHS").[95] As a result, people with low incomes who rely on Medicaid or IHS must pay out of pocket for abortion care while already struggling to make ends meet.

Restrictive regulatory environments add to these challenges by limiting the number of clinics that

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[92] Rachel K. Jones & Jenna Jerman, *Population Group Abortion Rates and Lifetime Incidence of Abortion: United States, 2008-2014*, 107 Am. J. Pub. Health 1904, 1907 (2017); Lisa R. Pruitt & Marta R. Vanegas, *Urbanormativity, Spatial Privilege, and Judicial Blind Spots in Abortion Law*, 30 Berkeley J. Gender L. & Just. 76, 82 (2015).

[93] Warren Kulo, *Mississippi Still Nation's Most Poverty Stricken State*, Gulflive.com (Mar. 5, 2020), https://www.gulflive.com/news/2020/03/mississippi-still-nations-most-poverty-stricken-state.html; *see also Best State Rankings, Measuring Outcomes for Citizens Using More than 70 Metrics*, U.S. News, https://www.usnews.com/news/best-states/rankings (last visited Sept. 15, 2021).

[94] H.R. 14232, 94th Cong. § 209 (1976) (restricting funding except in cases of life endangerment); H.R. 2518, 103rd Cong. § 510 (1993) (adding exceptions for "rape, and incest").

[95] Indian Health Manual § 3-13.14(B), https://www.ihs.gov/ihm/pc/part-3/p3c13/#3-13.14B; *see also* Shaye Beverly Arnold, *Reproductive Rights Denied: The Hyde Amendment and Access to Abortion for Native American Women Using Indian Health Service Facilities*, 104 Am. J. Pub. Health 1892, 1892 (2014).

provide care and the number of appointments those clinics offer, even though abortion is as safe or safer than other medical procedures that are readily accessible in doctors' offices across the country.[96] These barriers combined with the control that abusers exert over survivors delay survivors' ability to access abortion care, if they are able to obtain care at all.[97]

D. Mississippi's 15-week ban will have grave consequences for the lives and health of IPV survivors, especially the most marginalized.

Given the almost insurmountable barriers that pregnant people already face in accessing abortion care, all of which are exacerbated for survivors of IPV, many simply are not able to obtain abortions prior to 15 weeks of pregnancy. Traveling out of state to obtain an abortion is prohibitive for most pregnant people and especially for survivors, whose time outside the home, and access to transportation and financial resources are extremely limited and tightly controlled. Consequently, Mississippi's 15-week abortion ban will force many survivors to self-manage their care without medical support, resort to unsafe methods, or carry to term pregnancies that may be coerced. These pregnancies in turn trap them in abusive relationships and threaten their health and safety.[98]

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[96] Nat'l Acads. of Scis., Eng'g & Med., *The Safety and Quality of Abortion Care in the United States* 10 (2018).

[97] Cynthia K. Sanders, *Economic Abuse in the Lives of Women Abused by an Intimate Partner: A Qualitative Study*, 21 Violence Against Women 3, 3 (2015).

[98] Here again, the State's assertion that because "the vast majority of abortions take place in the first trimester," the 15-

Being forced to carry an unintended pregnancy to term exposes survivors of IPV to a high likelihood of further violence, including homicide, and poses significant health risks. Indeed, it could cost some pregnant people—especially those from communities of color—their lives. Between 2013 and 2016, the rate of maternal mortality in Mississippi was nearly twice the United States average, and the rate for Black women was nearly three times that of white women. As the Mississippi State Department of Health has acknowledged:

> The dramatic disparity in pregnancy-related mortality between Black and White women in Mississippi demands urgent attention and acknowledgement of how factors like social determinants of health and implicit bias can affect women's health and health care.[99]

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week ban will "not prohibit any woman from making the ultimate decision to terminate her pregnancy" completely ignores the reality for many pregnant people, especially survivors of color in Mississippi. *See* Br. for Pet'rs at 47–48 (cleaned up).

[99] Collier et al., *supra* note 16, at 25. Among the factors that contribute to the high rate of maternal mortality in Mississippi are insufficient access to insurance and medical care during the postpartum period through one year after the end of pregnancy. *Id.* at 22; *see also* Erica Hensley & Nick Judin, *Disrupted Care: Mississippi Legislature Kills Postpartum Medicaid Extension, Affecting 25,000 Mothers Yearly*, Miss. Free Press (Apr. 2, 2021), https://www.mississippifreepress.org/10868/disrupted-care/. Indeed, Mississippi is one of only nine states that have not extended Medicaid benefits to one-year postpartum. *Status of State Medicaid Expansion Decisions: Interactive Map*, Kaiser Fam. Found. (Sept. 8, 2021), https://www.kff.org/medicaid/issue-brief/status-of-state-medicaid-expansion-decisions-interactive-

Given the long legacy of state and federal policies that have left communities of color more vulnerable to IPV, unintended pregnancy, and higher rates of maternal mortality, the imposition of a 15-week abortion ban that will force many survivors of color to carry pregnancies to term against their will reflects a profound disregard for their lives and wellbeing and that of their existing children.[100]

CONCLUSION

The right to abortion is vital to the ability to participate equally in "the economic and social life of the Nation." *Casey*, 505 U.S. at 856; *see also Gonzales v. Carhart*, 550 U.S. 124, 172 (2007) (Ginsberg, J., dissenting) ("[A]t stake in cases challenging abortion restrictions is a woman's 'control over her [own]

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map/. Medicaid covers more than two thirds of births in Mississippi. Hensley & Judin, *supra*.

[100] As the district court observed, Mississippi is "'the state with the most [medical] challenges for women, infants, and children' but is silent on expanding Medicaid. . . . Its leaders are proud to challenge *Roe* but choose not to lift a finger to address the tragedies lurking on the other side of the delivery room . . . . No, legislation like H.B. 1510 is closer to the old Mississippi—the Mississippi bent on controlling women and minorities." *Jackson Women's Health Org. v. Currier*, 349 F. Supp. 3d 536, 540 n.22 (S.D. Miss. 2018) (quoting Ryan Sit, *Mississippi has the Highest Infant Mortality Rate and is Expected to Pass the Nation's Strictest Abortion Bill*, Newsweek (Mar. 19, 2018); citing Lynn Evans, *Maternal Deaths Still on the Increase*, Clarion Ledger (Mar. 31, 2018), https://www.clarionledger.com/story/opinion/2018/03/31/maternal-deaths-still-increase/473125002/; Danielle Paquette, *Why Pregnant Women in Mississippi Keep Dying*, Wash. Post (Apr. 24, 2015), https://www.washingtonpost.com/news/wonk/wp/2015/04/24/why-pregnant-women-in-mississippi-keep-dying/).

destiny.'" (brackets in original) (quoting *Casey*, 505 U.S. at 869)). For survivors of IPV, the stakes are even higher. The loss of a meaningful abortion right will enable abusers to exert even greater, more dangerous control over them. It is not an exaggeration to say that a survivor's ability to have an abortion may mean the difference between life and death. This is especially true for survivors of color.

States should support the efforts of survivors to break free of abuse and reclaim control of their lives. But here the State does the opposite, compounding the control that abusers already exert over survivors and further undermining survivors' constitutional right to reproductive decision-making at the moment when it is most critical. For the foregoing reasons, *Amici* request that this Court find Mississippi's Gestational Age Act unconstitutional.

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