

United States Senate

WASHINGTON, DC 20510

June 7, 2022

The Honorable Joseph R. Biden
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear Mr. President:

We write to urge you to immediately issue an executive order directing the federal government to develop a national plan to defend Americans' fundamental reproductive rights, including their right to an abortion.

Abortion access is under attack in the United States and already completely eliminated in swaths of the country. After decades of activism by Republican extremists, the Supreme Court is poised to overturn *Roe v. Wade*, reversing nearly 50 years of settled law and eviscerating the right to a legal abortion.¹ Anti-abortion violence is on the rise, with assaults and threats of harm against abortion providers more than doubling between 2016 and 2020.² Anti-abortion politicians have introduced nearly 550 abortion restrictions in 42 states and passed radical laws completely banning abortion and placing bounties on providers offering medical services.³ And if *Roe v. Wade* is gutted by this right-wing Supreme Court, Republican leaders have already signaled their next move: a nationwide ban on abortion in all 50 states.⁴

Americans across the nation and at every level of government must stand up against this unprecedented assault on women and their right to make decisions about their own bodies and lives. But as President of the United States, you have the unique power to marshal the resources of the entire federal government to respond.

You have already mobilized the full weight of the federal government on behalf of several key Administration priorities. On your first day in office, you issued an executive order directing "the whole of the federal government to advance an ambitious equity and racial justice agenda," prompting more than 90 federal agencies to develop over 300 concrete strategies and commitments to address systemic racism.⁵ On the 56th anniversary of Bloody Sunday, you issued an executive order instructing "the head of each federal agency to submit . . . a strategic plan outlining ways their agency can promote voter

¹ Politico, "Supreme Court has voted to overturn abortion rights, draft opinion shows," Josh Gerstein and Alexander Ward, May 2, 2022, <https://www.politico.com/news/2022/05/02/supreme-court-abortion-draft-opinion-00029473>.

² NBC News, "Abortion clinics are bracing for protests, harassment and violence if Roe falls," Jon Schuppe, May 4, 2022, <https://www.nbcnews.com/news/us-news/abortion-clinics-protests-security-rcna27270>.

³ Guttmacher Institute, "2022 State Legislative Sessions: Abortion Bans and Restrictions on Medication Abortion Dominate," Elizabeth Nash, Lauren Cross, and Joerg Dreweke, May 6, 2022, <https://www.guttmacher.org/article/2022/03/2022-state-legislative-sessions-abortion-bans-and-restrictions-medication-abortion>.

⁴ Washington Post, "The next frontier for the antiabortion movement: A nationwide ban," Caroline Kitchener, May 2, 2022, <https://www.washingtonpost.com/nation/2022/05/02/abortion-ban-roe-supreme-court-mississippi/>; NPR, "White House: Serious risk of nationwide abortion ban after McConnell floats the idea," Deepa Shivaram, May 9, 2022, <https://www.npr.org/2022/05/09/1097614463/white-house-responds-to-protests-over-leaked-supreme-court-draft-opinion-on-roe>.

registration and participation within 200 days.”⁶ And on July 9, 2021, you issued an executive order establishing “a whole-of-government effort to promote competition in the American economy,” ordering more than a dozen federal agencies to implement 72 initiatives to tackle our nation’s most urgent competition problems.⁷

Now is the time for equally bold action to protect the right to an abortion. The Biden-Harris Administration has led on issues of reproductive rights with the establishment of the White House Gender Policy Council, the release of the first-ever National Strategy on Gender Equity and Equality, and the launch of a whole-of-government response to Texas’s draconian law depriving residents of their constitutional right to an abortion.⁸ Nevertheless, the dramatic escalation of attacks on abortion access— spearheaded by right-wing justices, lawmakers, and activists—demands comprehensive and creative strategies from every corner of the federal government. We encourage you to consider the following ideas:

1. **Increasing access to medication abortion.** Federal agencies could take steps to increase the accessibility of medication abortion and ensure the wide availability of accurate information about medication abortion.
2. **Providing resources for individuals seeking abortion care in other states.** Federal agencies could explore opportunities to provide vouchers for travel, child care services, and other forms of support for individuals seeking to access abortion care that is unavailable in their home state.
3. **Establishing a reproductive health ombudsman at the Department of Health and Human Services (HHS).** A new ombudsman could educate the public and analyze data collected by HHS about access to reproductive services. For example, this office could gather information about insurers’ coverage of reproductive health services (such as contraception); disseminate information about how individuals could connect with Title X clinics, reproductive health clinics, and abortion funds; and provide the public with safety information related to self-managed abortions outside formal medical settings.
4. **Enforcing “Free Choice of Provider” requirements.** HHS could explore more aggressively enforcing federal requirements that guarantee Medicaid beneficiaries have the ability to seek family planning services from their provider of choice.⁹
5. **Clarifying protections for sensitive health and location data.** HHS’s Office for Civil Rights could clarify how websites or mobile applications that collect information related to reproductive health (such as period trackers) should protect personally identifiable information and other

⁵ White House, “FACT SHEET: Biden-Harris Administration Releases Agency Equity Action Plans to Advance Equity and Racial Justice Across the Federal Government,” April 14, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/04/14/fact-sheet-biden-harris-administration-releases-agency-equity-action-plans-to-advance-equity-and-racial-justice-across-the-federal-government>.

⁶ White House, “Fact Sheet: President Biden to Sign Executive Order to Promote Voting Access,” March 7, 2021, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/07/fact-sheet-president-biden-to-sign-executive-order-to-promote-voting-access>.

⁷ White House, “FACT SHEET: Executive Order on Promoting Competition in the American Economy,” July 9, 2021, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/07/09/fact-sheet-executive-order-on-promoting-competition-in-the-american-economy>.

⁸ White House, “FACT SHEET: Biden-Harris Administration Celebrates First Anniversary of the Establishment of the White House Gender Policy Council,” March 8, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/08/fact-sheet-biden-harris-administration-celebrates-first-anniversary-of-the-establishment-of-the-white-house-gender-policy-council>.

⁹ See 42 U.S.C. § 1396a; 42 C.F.R. § 431.51.

sensitive data, especially given the risks presented by the sale of this data in states that criminalize reproductive decision-making.

6. **Using federal property and resources to increase access to abortion.** The Department of Justice and all relevant agencies could analyze the types of reproductive health services that could be provided on federal property, especially in states where such services are limited by state law or regulation. The Department of Defense could assess the feasibility of moving military personnel and their families and any authority to ensure that members and their families can access reproductive health care when they need it. The Office of Personnel Management could explore requirements that all federal employees are provided paid time off and reimbursement for expenses necessary to access abortion. And all federal agencies—including those who retain custody or control over individuals or provide healthcare to them—could conduct a review of their regulations and policies that limit abortion care and other reproductive health services and promulgate new regulations that expand access to those services.

These proposals are only starting points in a federal apparatus that affects millions of Americans every day. The entirety of the federal government must be engaged in the Administration’s efforts and must act as swiftly as possible.

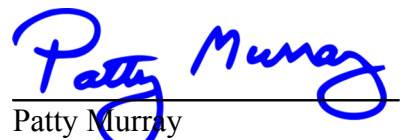
As extremist judges and Republican politicians intensify their efforts to strip Americans of their basic reproductive freedoms, you can demonstrate to the country and women everywhere that you will do everything in your power to fight back. With each day that passes, this crisis will only worsen: if the Supreme Court overturns *Roe v. Wade*, 26 states could instantly move to ban abortion, leading 36 million women to suddenly lose access to abortion and causing maternal mortality—which already disproportionately affects women of color—to drastically increase.¹⁰ We urge you to immediately issue an executive order instructing the leaders of every federal agency to submit their plans to protect the right to an abortion within 30 days. Americans across the country are at risk of losing their fundamental rights, including their constitutional right to abortion protected for generations. They deserve no less than a whole-of-government response.

Thank you for your attention to this important matter.

Sincerely,



Elizabeth Warren
United States Senator



Patty Murray
United States Senator

¹⁰ Bloomberg, “Supreme Court Could Jeopardize Abortion Access for 36 Million People,” Kelsey Butler, Mathieu Benhamou, Rachael Dottle, Jeremy C.F. Lin, Dave Merrill, and Cedric Sam, May 3, 2022, <https://www.bloomberg.com/graphics/2022-supreme-court-roe-v-wade-abortion-access>.

Kirsten Gillibrand

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Brian Schatz

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Tammy Baldwin

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Jeanne Shaheen

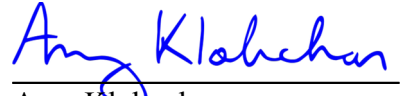
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Tina Smith

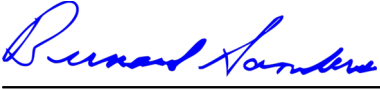
Tina Smith
United States Senator



Chris Van Hollen
United States Senator



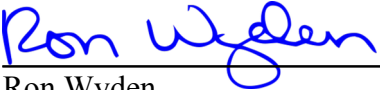
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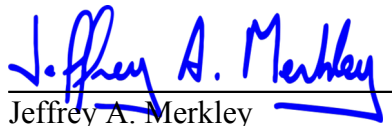
Alex Padilla
United States Senator




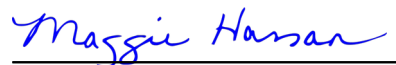
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