

**Testimony of Fatima Goss Graves
President and CEO
National Women’s Law Center**

**House Committee on Oversight and Reform
Examining State Efforts to Undermine Access to Reproductive Health Care
November 14, 2019**

Dear Chairwoman Maloney and Ranking Member Jordan,

Thank you, members of the Oversight Committee, for inviting me to testify. My name is Fatima Goss Graves, and I am the President and CEO of the National Women’s Law Center, which is dedicated to the advancement and protection of women’s legal rights and opportunities.

We fight for gender justice – in the courts, in public policy, and in our society – working across the issues that are central to the lives of women and girls, including child care and early learning, education, reproductive rights and health, income security, and workplace justice. We also house the TIME’S UP Legal Defense Fund, which connects those who experience sexual harassment or assault in the workplace with legal assistance.

At the Law Center, we know that access to reproductive health care – including abortion – is vital to gender justice. Access to abortion is a key part of a person’s liberty, equality, and economic security. Everyone, no matter where they live or their financial means, should have access to abortion when they need it. As the Supreme Court said in *Planned Parenthood of Southeastern Pennsylvania v. Casey*, “The ability of women to participate equally in the economic and social life of the Nation has been facilitated by their ability to control their reproductive lives.”ⁱ

We also know that the legislators passing restrictions on abortion want to control the lives and futures of women, denying them equality. It is not lost on me that we are facing the biggest threat to the right to abortion on the eve of the 100th anniversary of the 19th Amendment, when some women first gained the right to vote. The fight to secure the vote was symbolic of a broader societal change regarding women’s ability and right to be politically equal and make politically independent decisions. Now too, there is a broader movement in this country that will transform the relationship between gender and power.

It is against this backdrop that we must view Missouri's regulatory and legislative efforts to shut down the state's last abortion clinic. Missouri is not the first state to seek to end abortion in this country. Since 2010, state lawmakers have passed more than 400 abortion restrictions, intended to make *Roe v. Wade* irrelevant and ignoring the Supreme Court's clear statements that reproductive decisions are foundational liberties protected by the Fourteenth Amendment.ⁱⁱ

What is unique to this moment in time are the types of abortion bills that are being introduced and passed. Before this year, extreme bans on abortion that represent a direct challenge to *Roe* – for example, banning abortion before most people even know they are pregnant – were typically seen as too radical, even by many anti-abortion advocates who held disdain for the decades of precedent that protect the fundamental right of women, as the Court put it in *Casey*, to “control their reproductive lives.”ⁱⁱⁱ And yet, this year, state lawmakers in seven states – Alabama, Georgia, Kentucky, Louisiana, Mississippi, Ohio, and Missouri – passed laws that would prohibit nearly all abortions.^{iv} And even as court after court has blocked these unconstitutional bans, the assault continues. Just last week, South Carolina considered an abortion ban on the heels of its governor claiming that there is no constitutional right to abortion.^v

What is also unique to this moment is state legislators' willingness to express up front *why* they are pushing these extreme measures: their goal is to propel a case that presents the Supreme Court with an opportunity to overturn or undermine *Roe v. Wade*. These legislators believe that between President Trump, Vice President Pence, and the newly constituted Supreme Court, this goal will be realized.

During his first campaign, President Trump promised “some form of punishment” for women who have abortions.^{vi} He also promised to “automatically” overturn *Roe v. Wade* by appointing Justices on the Supreme Court to do just that.^{vii} In the three years that Trump has been in power, he has reshaped our federal judiciary in shocking terms. While the Senate fails to take up critical legislation that the House has already passed, including increasing the minimum wage and addressing the gender pay gap, discrimination against LGBTQ individuals, and violence against women, among other things, it has confirmed federal circuit judicial nominees at a record pace.^{viii} And President Trump has appointed two Justices to the U.S. Supreme Court to fulfill his promise – as well as nearly one-fifth of the federal judiciary, and one-quarter of all circuit court judgeships. It is disturbing, but not surprising, that earlier this year, the Fifth Circuit upheld a Louisiana law that is identical to the unconstitutional Texas law struck down by the Supreme Court in *Whole Woman's Health v. Hellerstedt* just three years

ago.^{ix} The Supreme Court has agreed to review that rogue decision this Term in *June Medical Services, L.L.C v. Gee*^x. This should be an easy decision. Nothing relevant has changed in the last three years – except the composition of the Supreme Court.

But the law at issue in *June*, requiring an abortion provider to have admitting privileges at a hospital within thirty miles, is just one type of targeted regulation of abortion providers (generally called “TRAP” laws) that violates the constitutional right to abortion and that anti-abortion lawmakers continue to force through the state legislatures.^{xi}

These TRAP laws and other similar restrictions do nothing to make abortion – an already extremely safe procedure – safer. In stead, they are intended to close clinics, and they have done just that. Between 2011 and 2017, the South lost 50 abortion clinics and the Midwest lost 33 clinics, in part because of these laws.^{xii}

The resulting shortage of abortion providers has led to longer waiting times for appointments and increased travel to clinics, which often result in increased associated costs – such as long-distance travel, a hotel stay in a different city, additional child care costs, and more time off of work.^{xiii} These costs compound with other restrictions intended to make abortion unaffordable and, therefore, inaccessible. For example, people seeking abortion in these states often must pay out of pocket for the abortion care itself, since these same legislatures have also banned insurance coverage of abortion.^{xiv} The impact of this web of restrictions means that, for many people already, the right to abortion has been decimated.

Let’s be clear about who bears the brunt of these efforts to ban abortion: it’s low income women who cannot afford to make multiple trips to a provider, drive across state, and pay out of pocket for the abortion care.^{xv} It’s women of color who already face tremendous inequality in health care, including maternal health, which is particularly true for Black and indigenous women.^{xvi} It includes those who live in rural areas, given the lack of providers and clinics in such areas, and LGBTQ individuals, who already face barriers to reproductive health care.^{xvii} In short, it is those who often have the least representation in the very governmental entities that are seeking to control them.

What these politicians are doing is not representing the will of the people. The public – nearly 7 in 10 people – does not want the right to abortion overturned.^{xviii} In the wake of these extreme abortion bans, this public sentiment showed its strength as people flooded the streets this past summer to protest the laws.^{xix} Missouri’s attempts to limit abortion access have shocked the nation. The only thing more shocking is that it has been joined by other extreme politicians seeking to do the same. The unconscionable lengths to which Missouri bureaucrats have gone

to limit abortion – including targeting compassionate health care providers and tracking women’s periods – underscores how critical our fight for abortion access is for ensuring our dignity and equality.^{xx}

As president of an organization that fights for gender justice in our schools, at work, in health care, and in improving income security for women and their families, I have a bird’s eye view of how all of these fights are connected. The same misogyny that drives these abortion bans drives much of the opposition we see in our other efforts to advance gender justice.

That’s why at this moment of reckoning on the constitutional right to abortion, on the eve of the 100th anniversary of some women getting the right to vote, I know that we cannot have gender justice as long as the right to abortion and ability to access abortion care is controlled by those in power. We need Congress to lead in this moment, starting with passing laws like the EACH Woman Act and the Women’s Health Protection Act.

Thank you.

ⁱ *Planned Parenthood of Se. Pa. v. Casey*, 505 U.S. 833, 835 (1992).

ⁱⁱ CTR. FOR REPRODUCTIVE RIGHTS & IBIS REPRODUCTIVE HEALTH, *EVALUATING PRIORITIES: MEASURING WOMEN AND CHILDREN’S HEALTH AND WELL-BEING AGAINST ABORTION RESTRICTIONS IN THE STATES 4* (vol. II 2017), available at <https://reproductiverights.org/sites/default/files/documents/USPA-Ibis-Evaluating-Priorities-v2.pdf>.

ⁱⁱⁱ *Casey*, 505 U.S. 833, 835 (1992).

^{iv} GUTTMACHER INST., *STATE POLICY TRENDS AT MID-YEAR 2019: STATES RACE TO BAN OR PROTECT ABORTION* (2019), available at <https://www.guttmacher.org/article/2019/07/state-policy-trends-mid-year-2019-states-race-ban-or-protect-abortion>.

^v Grace Segers, *South Carolina governor responds to court decision overturning his executive order on abortion*, CBS NEWS (Nov. 4, 2019 8:34 PM), <https://www.cbsnews.com/news/abortion-laws-in-south-carolina-governor-henry-mcmaster-responds-to-court-overturning-executive-order-on-abortion/>.

^{vi} Emily Crockett, *Donald Trump: “There has to be some form of punishment” for women who have abortions*, Vox (Mar 30, 2016, 5:02pm), available at <https://www.vox.com/2016/3/30/11333472/trump-abortions-punishment-women>.

^{vii} Aaron Blake, *Trump makes clear Roe v. Wade is on the chopping block*, THE WASHINGTON POST (July 2, 2018), <https://www.washingtonpost.com/news/the-fix/wp/2018/07/02/trump-makes-clear-roe-v-wade-is-on-the-chopping-block/>.

^{viii} NAT’L WOMEN’S LAW CTR., *Trump’s Takeover of the Courts: What’s at Stake for Gender Justice*, (Oct. 9, 2019), available at https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2019/10/FS_TrumpCourtsTakeover.pdf.

^{ix} *Whole Woman’s Health v. Hellerstedt*, 136 S. Ct. 2292 (2016).

^x *June Medical Services, L.L.C. v. Gee*, 913 F.3d 573 (5th Cir.), *granting stay*, 139 S. Ct. 663 (2019), *and cert. granted*, No. 18-1323, 2019 WL 4889929, at *1.

^{xi} Emergency Application for a Stay Pending the Filing and Disposition of a Petition for a Writ of Certiorari at 1, *June Medical Services L.L.C. v. Gee*, 913 F.3d 573 (5th Cir. 2018) (No. 17-30397), available at https://www.supremecourt.gov/DocketPDF/18/18A774/81802/20190125210017962_Motion%20to%20Stay%20Mandate%20SCOTUS%20Final.pdf.

^{xii} GUTTMACHER INST., *THE U.S. ABORTION RATE CONTINUES TO DROP: ONCE AGAIN, STATE ABORTION RESTRICTIONS ARE NOT THE MAIN DRIVER*, (vol. XXII 2019), available at <https://www.guttmacher.org/gpr/2019/09/us-abortion-rate-continues-drop-once-again-state-abortion-restrictions-are-not-main>.

^{xiii} Brief of Amici Curiae National Women’s Law Center and 47 Additional Organizations Committed to Equality and Economic Opportunity for Women in Support of Petitioners at 19, *Whole Woman’s Health v. Hellerstedt*, 136 S. Ct. 2292 (2016) (No. 15-274), available at https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2016/01/RRH_Whole-Womens-Health-Amicus-Brief_1.4.16.pdf.

^{xiv} *Id.* at 31.

^{xv} See *id.* at 19 (providing that “triple clinic visits is a luxury unavailable to low-wage workers who frequently receive their work schedules just one week in advance”).

^{xvi} Nat’l P’ship for Women & Families, *Black Women’s Maternal Health* (2018), available at <http://www.nationalpartnership.org/our-work/resources/health-care/maternity/black-womens-maternal-health-issue-brief.pdf>; Roni Caryn Rabin, *Huge Racial Disparities Found in Deaths Linked to Pregnancy*, NEW YORK TIMES (May 7, 2019), <https://www.nytimes.com/2019/05/07/health/pregnancy-deaths.html>.

^{xvii} AM. COLL. OF OBSTETRICIANS & GYNECOLOGISTS, COMMITTEE OPINION: HEALTH DISPARITIES IN RURAL WOMEN (2014), <https://www.acog.org/-/media/Committee-Opinions/Committee-on-Health-Care-for-Underserved-Women/co586.pdf?dmc=1&ts=20191112T0114132450>; BIXBY CTR. FOR GLOB. REPRODUCTIVE HEALTH, *LGBTQ Patients Face Discrimination and Erasure When Seeking Reproductive Health Care*, <https://bixbycenter.ucsf.edu/news/lgbtq-patients-face-discrimination-and-erasure-when-seeking-reproductive-health-care> (last visited on Nov. 11, 2019).

^{xviii} Jennifer de Pinto, *Majority of Americans Don’t Want Roe v. Wade Overturned*, CBS News Poll Finds, CBS NEWS (May 21, 2019, 5:00 PM) <https://www.cbsnews.com/news/majority-of-americans-dont-want-roe-v-wade-overturned-cbs-news-poll-finds/>.

^{xix} Laurel Wamsley, *Across The Country, Protesters Rally To Stop States’ Abortion Bans*, NPR (May 21, 2019, 3:21 PM), <https://www.npr.org/2019/05/21/725410050/across-the-country-protesters-rally-to-stop-states-abortion-bans>.

^{xx} Sabrina Tavernise, *Dispute Over Data on Women’s Periods Shadows Hearing for Last Missouri Abortion Clinic*, NEW YORK TIMES (Oct. 31, 2019), <https://www.nytimes.com/2019/10/31/us/abortion-missouri-planned-parenthood.html>; GUTTMACHER INST., *State Facts About Abortion: Missouri*, <https://www.guttmacher.org/factsheet/state-facts-about-abortion-missouri> (last visited Nov. 11, 2019).