

## **Support HB 224 – Repeal the Harmful Criminal Penalties from New Hampshire’s Abortion Ban**

**Bill Summary:** HB 224 would repeal the criminal and civil penalties from New Hampshire’s 24-week abortion-ban under RSA 329:46-329:48. The current law puts doctors at risk of facing a Class B felony, which prompts fines up to \$100,000 and a prison sentence of three-and-a-half to seven-years for providing reproductive health care. Additionally, under the current law, when the pregnant person is under the age of 18, under certain conditions the “maternal grandparents” have a right to sue the provider.<sup>i</sup>

**Criminalizing abortion results in poor health outcomes.**<sup>ii</sup> Abortion care is health care, not criminal activity. Abortion is an extremely safe component of comprehensive reproductive health care, and the current laws only limit the ability of qualified medical professionals to provide safe, legal abortion. According to the American College of Obstetricians and Gynecologists, abortion is “an essential component of women’s health care.”<sup>iii</sup> Physician advocates and medical ethics experts nationwide have argued that laws similar to New Hampshire’s existing criminal penalties require health care professionals to “deprioritize” the pregnant individual and to act in ways that can be “medically harmful.”<sup>iv</sup> Instances where the criminalization of abortion is only lifted for “medical emergencies” or “risk of death” have been described as vaguely defined by reproductive health providers. This has left physicians feeling cornered into limiting care or requiring a continued deterioration of the mother’s health before an abortion is deemed a medical emergency.”<sup>v</sup>

**Imposing criminal penalties creates an unnecessary barrier to abortion access.** According to the Journal of Family Medicine, laws that directly criminalize abortion providers “discourage both capable providers and future clinicians from pursuing the practice of abortion care. And, by dissuading providers, these laws further limit patients’ access to comprehensive reproductive health care in a system that is already severely strained.”<sup>vi</sup> Physicians in New Hampshire agree; in 2021, when the abortion ban was introduced, we heard medical doctors express criminal penalties “disincentivize” providers to work in the state and evoke “fear they cannot offer care.”<sup>vii</sup> Other physician advocates have expressed that the qualified professionals who offer critical reproductive health services are already in short supply and are particularly difficult to recruit to rural states like New Hampshire.<sup>viii</sup> In fact, a study of pre-med students found that how states respond to Roe’s overturn will significantly impact where they choose to attend medical school.<sup>ix</sup> After the pandemic, New Hampshire’s primary care and health care professional shortage has been deemed “catastrophic.”<sup>x</sup> Legislators should effect policy that attracts health care providers to the Granite State, not inspire fear by criminalizing health care.

**The current law singles out qualified providers capable of performing abortions later in pregnancy.** There is no other medical procedure in the state that has been criminalized. Our current New Hampshire law puts doctors at risk of jail time and a criminal record for taking care of their patients and providing care that they are expertly trained to give. The criminalization of abortion providers represents just one of many politically motivated tactics aimed at further restricting access to abortion, and these current penalties embolden individuals that seek to intimidate abortion providers further. Nationwide, “assaults directed at abortion clinic staff and patients increased 128% from 2020 to 2021.”<sup>xi</sup> Our current law is a slippery slope and is an invitation for further harassment against these medical professionals and should be removed.

**The vast majority of Granite Staters support safe, legal abortion.** Seventy-two percent of polled Granite Staters identified as pro-choice in 2022,<sup>xii</sup> while data from 2021 shows sixty-six percent support keeping abortion legal in all/most cases, rejecting the idea that bodies are public property to be regulated

by government officials. In fact, only three states have a higher percentage of residents who support safe, legal abortion access.<sup>xiii</sup> As this polling makes clear, Granite Staters don't appreciate government intervention into their private health care decisions.

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<sup>i</sup> N.H. Rev. Stat. § 329:46

<sup>ii</sup> de Londras, Fiona, et al. "The impact of criminalisation on abortion-related outcomes: a synthesis of legal and health evidence." *BMJ Global health* 7.12 (2022): e010409., available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9806079/>

<sup>iii</sup> The American College of Obstetricians and Gynecologists, *Abortion Access Fact Sheet*, 2023, available at, <https://www.acog.org/advocacy/facts-are-important/abortion-is-health-care>

<sup>iv</sup> Selena Simmons-Duffin, *For doctors, abortion restrictions create an 'impossible choice' when providing care*, June 24, 2022, National Public Radio, All Things Considered, available at, <https://www.npr.org/sections/health-shots/2022/06/24/1107316711/doctors-ethical-bind-abortion>

<sup>v</sup> Olivia Goldhill, *Vague 'medical emergency' exceptions in abortion laws leave pregnancy people in danger, doctors say*, May 20, 2022, Stat News, available at, <https://www.statnews.com/2022/05/20/medical-emergency-exceptions-abortion-laws-pregnant-people/>

<sup>vi</sup> Narayana, Sumathi, et al. "Family doctors and the criminalization of abortion care." *Family medicine* 51.10 (2019): 803-805., available at <https://journals.stfm.org/familymedicine/2019/november-december/gold-2019-0310/>

<sup>vii</sup> Todd Bookman, *How Abortion Access Will change if N.H. Lawmakers Pass Restrictions*, June 22, 2021, New Hampshire Public Radio, available at <https://www.nhpr.org/nh-news/2021-06-22/how-abortion-access-will-change-in-n-h-if-lawmakers-pass-restrictions>

<sup>viii</sup> Barry Smith, *Column: The real danger of New Hampshire abortion law*, Sept. 30, 2021, Valley News, available at, <https://www.vnews.com/Column-The-severe-side-effects-of-new-NH-abortion-law-42628384>

<sup>ix</sup> Kaplan INC., *Kaplan Survey: Nearly Half of Aspiring Doctors Say Abortion Rights Ruling Will Impact Where They Apply to Medical School*, November 1, 2022, Business Wire News, available at <https://www.businesswire.com/news/home/20221101005143/en/Kaplan-Survey-Nearly-Half-of-Aspiring-Doctors-Say-Abortion-Rights-Ruling-Will-Impact-Where-They-Apply-to-Medical-School>

<sup>x</sup> Adam Drapcho, *New Hampshire health care workforce shortage at catastrophic levels*, Nov, 15, 2022, Lanconia Daily Sun, available at, [https://www.lacondailysun.com/news/state/new-hampshire-health-care-workforce-shortages-at-catastrophic-levels/article\\_090c9fde-6527-11ed-8f7a-b71d458dcde5.html](https://www.lacondailysun.com/news/state/new-hampshire-health-care-workforce-shortages-at-catastrophic-levels/article_090c9fde-6527-11ed-8f7a-b71d458dcde5.html)

<sup>xi</sup> Oriana González, *Assaults against abortion clinics, patients rose 128% in 2021: report*, Jun 24, 2022, Axios, available at, <https://www.axios.com/authors/ogonzalez>

<sup>xii</sup> Neil Levesque, *A Survey of Registered New Hampshire Voters*, August 9-11, 2022, New Hampshire Institute of Politics, Saint Anselm College, available at, [https://www.anselm.edu/sites/default/files/Documents/NHIOP/Polls/SACSC\\_NHSW\\_0822\\_Book1.pdf](https://www.anselm.edu/sites/default/files/Documents/NHIOP/Polls/SACSC_NHSW_0822_Book1.pdf)

<sup>xiii</sup> *Id.*