

The Eyes of Texas are Upon OB/GYNs: Crowdsourcing Enforcement of Abortion Regulations

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- Took effect in 2021, **during** *Roe v. Wade* era
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- Survived pre-enforcement lawsuits due to “Civil Liability Enforcement Mechanism (CLEM)”

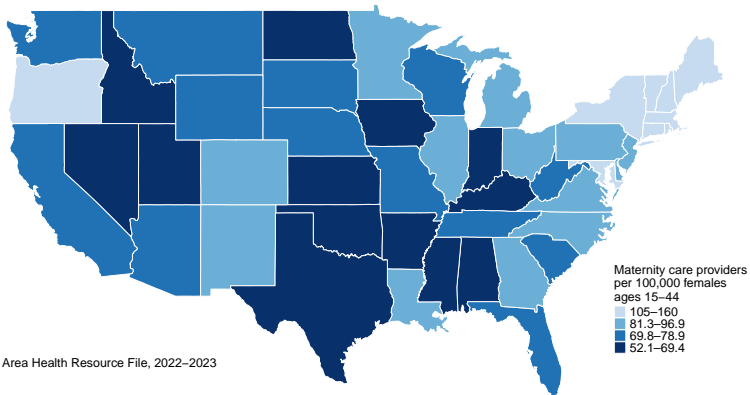
What is a Civil Liability Enforcement Mechanism (CLEM)?

- Private citizens enforce laws through civil lawsuits; “bounty laws”
 - TX SB 8: Minimum \$10,000 in damages against any who “aid or abet” an abortion
- No gov’t official to sue for injunction
- Permanent shifter: Makes an otherwise **unconstitutional** law **invincible**

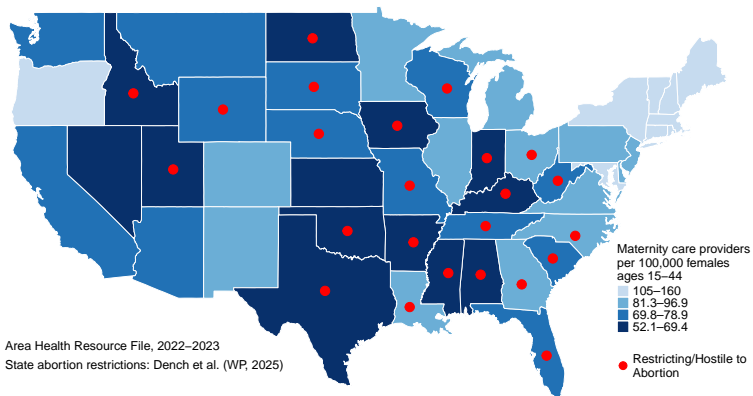
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- “Not only unusual, but unprecedented... it is the role of the Supreme Court in our constitutional system that is at stake.” (SCOTUS Chief Justice John Roberts)
- Arms race on sensitive issues: **abortion in TX**, guns in CA, more: **SB 8 Copycats**

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Maternal Mortality

Criminal penalties decrease OB/GYN supply

- TRAP (Targeted Regulation of Abortion Providers) era, 1993-2022: [Timeline of TX Abortion Law](#)
 - 5.3% decrease over 28 years in OB/GYNs in TRAP states [Markowski & Vandebroeck \(Working Paper, 2025\)](#)

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 - 5.3% decrease over 28 years in OB/GYNs in TRAP states [Markowski & Vandebroek \(Working Paper, 2025\)](#)
- Post-*Dobbs* era, 2022-present:
 - 3% decrease over 3 years in OB/GYNs in ban states [Diaz-Campo & Pineda-Torres \(Working Paper, 2025\)](#)
 - 0.049% decrease in total population in ban states (52,600/quarter) [Dench et al. \(Working Paper, 2025\)](#)
- But how does civil liability enforcement compare to criminal penalties?

Why would CLEM have a different migration effect than criminal penalties?

- Changes the physician optimization problem: increases expected operating costs
 - Malpractice insurance does not cover civil (or criminal) liability
- Lower burden of proof and broader set of affected physicians
 - Criminal penalty targets abortion performers; civil liability targets anyone who “aids or abets”
 - Omnipresent threat of scrutiny, hearsay
- Migration: easier to move to “unaffected states” compared to post-*Dobbs*

SB 8 is Salient

Does the enforcement mechanism matter?

Research Question: What is the effect of Texas' Senate Bill 8 (SB 8) on OB/GYN migration?

- Migration is defined as:
 - entry into TX
 - exit out of TX
 - retirement (exiting practice)
 - new graduates (entering practice)

Approach

- Triple difference model
 - Texas - all other states
 - OB/GYNs - all other MDs/DOs
 - After SB 8 - Before SB 8
- Panel of Medicare administrative data from November 2007 (start of data) through June 2022 (*Dobbs* overturns *Roe v. Wade*)

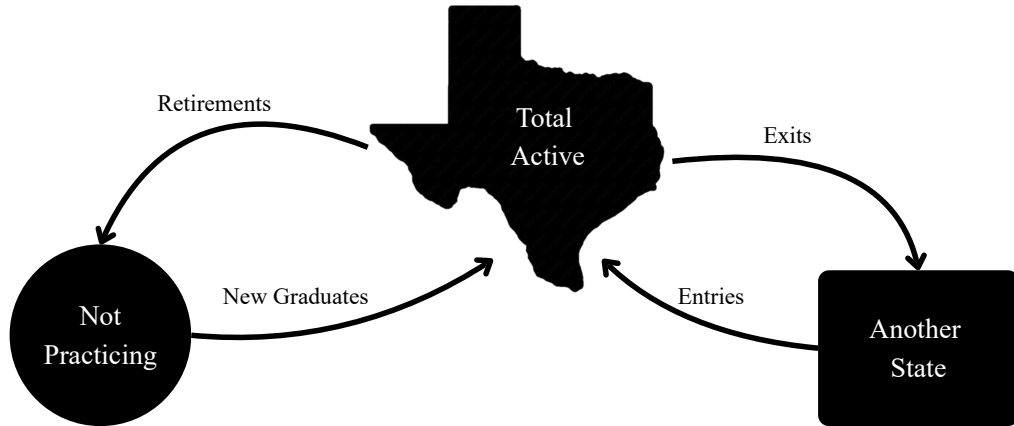
Preview of Results

- 1.5% decrease over 9 months in number of active Texan OB/GYNs after SB 8
- Relative to literature, we find a large effect in a shorter window

Data

- Novel quarterly panel of the universe of U.S. physicians (NPPES and DAC):
 - Physician name & NPI
 - Practice street address (must be current for Medicare billing)
 - Specialty
- Includes existing physicians and new physicians coming from residency
- Period: Nov. 2007 to June 2022, $N \approx 1.4\text{m}$ physicians

Outcome Variables - Migration



Triple Diff: Time, State, & Specialty

Identifying assumption: Had Texas not passed SB 8, OB/GYNs in Texas would behave similarly to OB/GYNs in other states before and after Sep 1, 2021

$$\begin{aligned}
 \text{Outcome}_{ist} = & \alpha + \underbrace{\beta_1 \cdot \text{Post SB8}_t}_{=1 \text{ if after Sep 1, 2021}} \times \underbrace{\text{Texas}_s}_{=1 \text{ if Texas}} \times \underbrace{\text{OB/GYN}_i}_{=1 \text{ if OB/GYN}} + \bar{\beta} \cdot (\text{Interaction Terms}) \\
 & + \underbrace{\gamma_s + \tau_t + \phi_i}_{\text{State, time, specialty FE}} + \underbrace{u_{ist}}_{\text{clustered by state}}
 \end{aligned}$$

where $\text{Outcome}_{ist} \in \{\text{Total OB/GYNs, Exit, Entry, Enter Practice, Exit Practice}\}$

	Active OB/GYNs	Exit State (In Practice)	Enter State (In Practice)	Exit Practice	Enter Practice
β_1	-0.0147*** (0.0023)	0.2698*** (0.0368)	0.2729*** (0.0396)	-11.8496*** (1.1969)	-8.2266*** (0.3401)
Year FE	Yes	Yes	Yes	Yes	Yes
State FE	Yes	Yes	Yes	Yes	Yes
Specialty FE	Yes	Yes	Yes	Yes	Yes

Notes: Coefficients from Poisson regression.

Standard errors (clustered by state) in parentheses.

*** $p < 0.001$, ** $p < 0.01$, * $p < 0.05$, + $p < 0.1$.

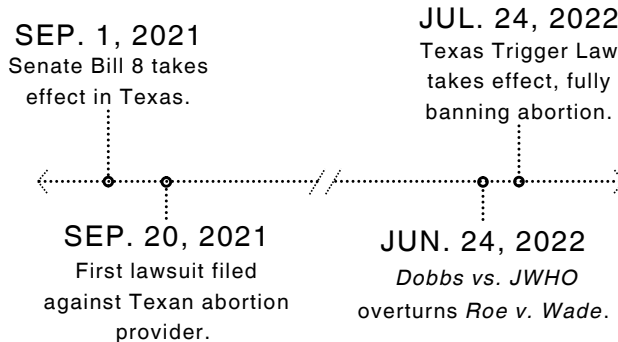
Discussion

- CLEMs are designed to circumvent constitutionality
- In an abortion context, CLEMs change the physician's optimization problem
- Affects allocation of a scarce resource: reproductive healthcare

Thank You!

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Timeline of Recent Abortion Law in Texas



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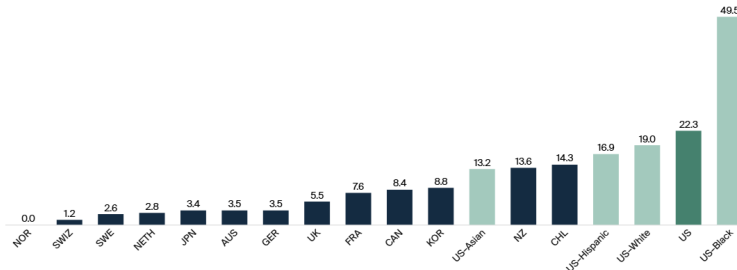
SB 8 Copycats

State	Subject	Status	Bill Number
Texas	Transgender bathrooms	Enacted	SB 8 (Different, 89th Leg.)
Idaho	Library censorship	Enacted	HB 710
California	Social media hate speech	Pending	SB 771
California	Gun control	Enacted	SB 1327
Texas	Gun control	Failed	HB 925
Illinois	Gun control	Failed	HB 4156
New York	Gun control	Announced	N/A
Florida	Critical Race Theory in Schools	Announced	N/A

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The United States continues to have the highest maternal death rate, with the rate for Black women by far the highest of any group.

Maternal deaths per 100,000 live births



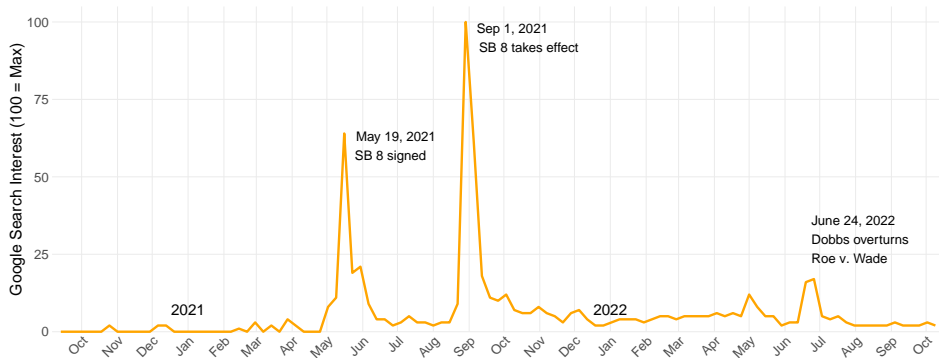
Notes: The maternal mortality ratio is defined as the death of a woman while pregnant or within 42 days of termination of pregnancy, irrespective of the duration and site of the pregnancy from any cause related to or aggravated by the pregnancy or its management but not from accidental or incidental causes. For more information on how maternal mortality is defined, see Organisation for Economic Co-operation and Development, "Maternal and Infant Mortality," in *Health at a Glance 2023: OECD Indicators* (OECD, 2023). 2015 data for FRA; 2017 data for UK; 2018 data for NZ; 2020 data for CAN and SWITZ; 2021 data for AUS, GER, JPN, KOR, NETH, and SWE; 2022 data for CHL (provisional), NOR, and US. Due to sample size limitations, data for US-AIAN cannot be displayed. AIAN = American Indian and Alaska Native. Asian Americans include a wide range of distinct communities. Such groupings are imperfect, as they mask significant difference in maternal mortality rates.

Data: All country data from OECD Health Statistics 2023 extracted on February 29, 2024, except data for US are 2022 data from the Centers for Disease Control and Prevention, National Center for Health Statistics, National Vital Statistics System, mortality and natality data files, "Maternal Mortality Rates in the United States, 2022."

Source: Munira Z. Gunja et al., *Insights into the U.S. Maternal Mortality Crisis: An International Comparison* (Commonwealth Fund, June 2024). <https://doi.org/10.26099/cthn-st75>

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Google searches for “Texas Heartbeat” suggest salience

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