



Initial Impacts of Texas' Senate Bill 8 on Abortions in Texas and at Out-of-State Facilities

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On September 1, 2021, Texas Senate Bill 8 (SB8) went into effect. The law bans abortion upon detection of embryonic cardiac activity, which can take place as early as 5 to 6 weeks after a person's last menstrual period; SB8 only allows exemptions for medical emergencies.¹ The law also permits almost anyone to sue abortion providers and others who 'aid and abet' a person obtaining abortion care in Texas after embryonic cardiac activity has been detected – or who intend to do so. People who have an abortion in Texas cannot be sued under SB8.

This is the most restrictive state-level abortion law in effect in the U.S., and it is expected to have a substantial impact on the number of facility-based abortions provided in Texas.² If pregnant people are unable to obtain abortion care in Texas, many may seek services in another state. There are a limited number of facilities providing abortion care in nearby states, which may make it difficult for these facilities to accommodate an increase in patient demand.^{3,4}

In this brief, we describe changes in the number of abortions provided in Texas during the first 30 days that SB8 was in effect. We also report wait times until the next available appointment at out-of-state facilities in September 2021. Wait times serve as a measure of facility capacity to meet patient demand and are an important indicator of access for time-sensitive health care, such as abortion.

TEXAS SERVICE AND POLICY CONTEXT AFFECTING TIMELY ACCESS TO CARE BEFORE SB8

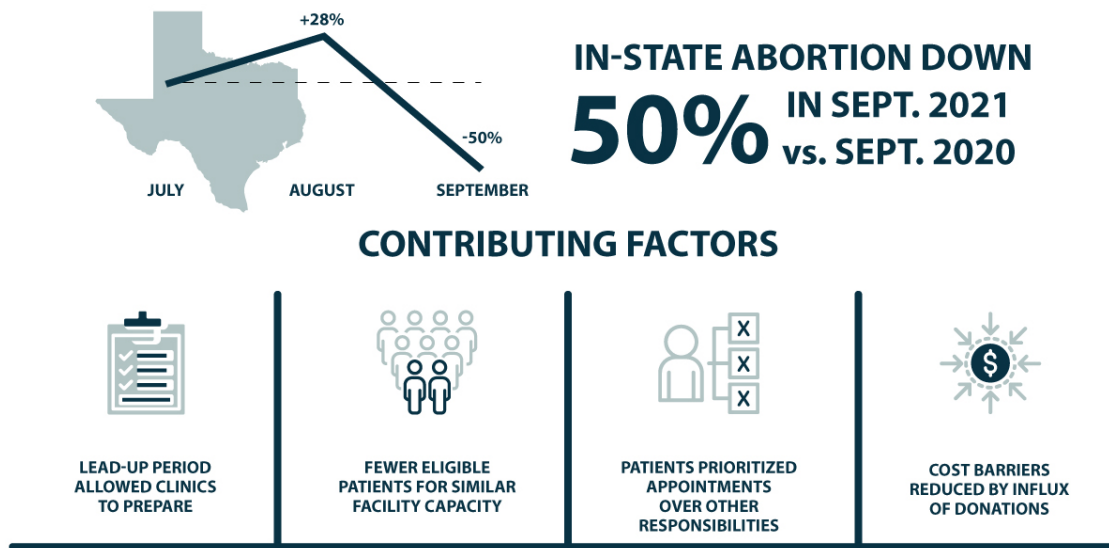
- Facilities that provide abortion care are geographically concentrated, and 44% of women aged 15 to 49 live in a county that does not have a facility; these Texans have to drive a median of 51 miles one way to reach the nearest facility.⁵
- Patients are required to have a mandatory ultrasound ≥ 24 hours before an abortion, which necessitates 2 in-person visits (unless the patient lives ≥ 100 miles away); the ultrasound must be performed by the same physician who provides the abortion.
- Private insurance and Medicaid are prohibited from covering abortion, forcing patients to pay out of pocket.
- Minors are required to notify and obtain consent from a parent or have a court hearing and obtain permission from a judge; this process is known as judicial bypass.⁶

■ The number of abortions in Texas fell by half following implementation of SB8.

We obtained monthly data on the total number of abortions provided at 19 of Texas' 24 abortion facilities, which provide approximately 93% of all abortions reported in state annual vital statistics data.^{4,7} We compared the percent change in the number of in-state abortions that occurred between July and September 2021, relative to the same months in 2020.

There was a 3.0% change (95% CI: -0.1, 7.0) in the number of abortions provided in Texas in July 2021 (n=4,564), compared to July 2020 (n=4,432). This was followed by a 28% increase (95% CI: 23%, 33%) in August 2021 (n=5,377) compared to August 2020 (n=4,198), which likely reflects facilities' expanded hours to accommodate more patients needing care in anticipation of SB8 going into effect.

Overall, 2,164 abortions were provided in September 2021 and 4,313 in September 2020, a 49.8% (95% CI: -52.4%, -47.2%) decrease.

Figure 1: Changes in abortion in Texas related to SB8


This decrease is larger than the 13% decline that occurred following the 2013 implementation of an omnibus abortion bill, House Bill 2 (HB2), which required physicians who provided abortion care to have admitting privileges at a nearby hospital, among other restrictions, and resulted in the closure of over half of Texas’ abortion facilities.⁸ It is also larger than the 38% decrease in abortions that occurred following Texas’ March 23, 2020 Executive Order, which prohibited most abortions for a period of 30 days at the onset of the coronavirus pandemic.⁴

Over 40% of people seeking abortion care do not contact a Texas facility until after 6 weeks’ of pregnancy.² Some of those who called for an appointment after September 1, 2021 were likely told they were ineligible for care based on the date of their last menstrual period, and others were turned away after an ultrasound showed embryonic cardiac activity. Additionally, people who were aware of SB8 may have expected that they would not be able to obtain an abortion in Texas after September 1, 2021, and therefore did not try to obtain in-state care at all.

Table 1: Texas’ largest documented decrease in abortion occurred following SB8

	DATE IMPLEMENTED	CHANGE IN ABORTIONS
HOUSE BILL 2	Nov. 1, 2013	- 13%
EXECUTIVE ORDER	Mar. 23, 2020	- 38%
SENATE BILL 8	Sept. 1, 2021	- 50%

For those patients who were still eligible for services in Texas, several factors may have allowed them to navigate Texas’ other abortion restrictions and obtain care before embryonic cardiac activity could be detected:

- With facilities seeing fewer patients overall, patients who were still eligible may have been able to schedule the state-directed counseling appointment (required at least 24 hours before an abortion) and return for their abortion with the same physician sooner than had been possible before SB8.
- Patients also may have decided to miss work, school or give up other responsibilities out of concern they would no longer be eligible if they waited to schedule around these obligations.
- Increases in financial donations following passage of SB8 may have helped patients living on low incomes to cover the cost of their abortion (about \$650), which they otherwise may have delayed until they could secure enough money.⁹



Appointment wait times indicate Texans are straining capacity at out-of-state facilities.

Texas’ neighboring states of Arkansas, Louisiana, New Mexico, and Oklahoma have approximately half the number of abortion facilities, combined, and provide about one-third the number of abortions per year compared to Texas.¹⁰⁻¹³ With the exception of New Mexico, these states require patients to receive state-directed counseling and then wait at least 24 hours before they can obtain abortion care;¹⁴ they also require minors to notify a parent and/or obtain parental consent or obtain a judicial bypass.¹⁵

We obtained information on the number of days until the next available state-directed counseling visit (Arkansas, Louisiana) or abortion appointment (New Mexico, Oklahoma) from mystery client calls placed to facilities in these four states in mid-September 2021.

We found that waiting times for appointments in September 2021 were longer in most cases, compared to waiting times in July 2020 (the most recent data available), suggesting these facilities were seeing a surge of patients. Waiting times exceeding 2 weeks were common at many locations. These waits may push pregnant people past the limit for medication abortion or into the second trimester of pregnancy, when procedures have a somewhat higher risk of complications compared to those obtained earlier in pregnancy.

Those who are able to travel out of state face economic hardships related to covering the cost of travel, lodging, lost wages, and childcare, in addition to their abortion, which together could sum well over \$1,000.¹⁶ They also experience stress and stigma as they navigate logistical challenges in an effort to obtain medical care hundreds of miles away.^{17,18} These travel obstacles are even greater for those obtaining care in states that require 2 in-person visits.

Figure 2: Location of out-of-state facilities relative to select Texas cities



Table 2: One-way driving distances from select Texas cities to out-of-state facilities

	Arkansas				Louisiana				New Mexico				Oklahoma	
	LITTLE ROCK	BATON ROUGE	SHREVEPORT	NEW ORLEANS	ALBUQUERQUE	SANTA FE	LAS CRUCES	SANTA TERESA	OKLAHOMA CITY	TULSA				
AMARILLO	592	795	551	870	284	277	416	442	258	367				
AUSTIN	508	444	335	518	690	683	621	589	385	453				
DALLAS	313	430	185	504	649	642	682	649	207	260				
EL PASO	951	1020	825	1094	265	326	45	20	719	830				
FORT WORTH	349	467	223	542	620	613	650	618	198	304				
LUBBOCK	660	778	534	853	319	311	360	359	347	458				
HOUSTON	430	277	240	351	884	877	787	755	442	496				
MCALLEN	820	620	586	695	947	940	835	802	697	764				
SAN ANTONIO	589	473	416	547	703	696	591	559	466	534				
TEXARKANA	140	334	81	408	775	767	855	822	314	276				



Figure 3: Increased wait times at out-of-state facilities in September 2021 during SB8 indicate patient surge

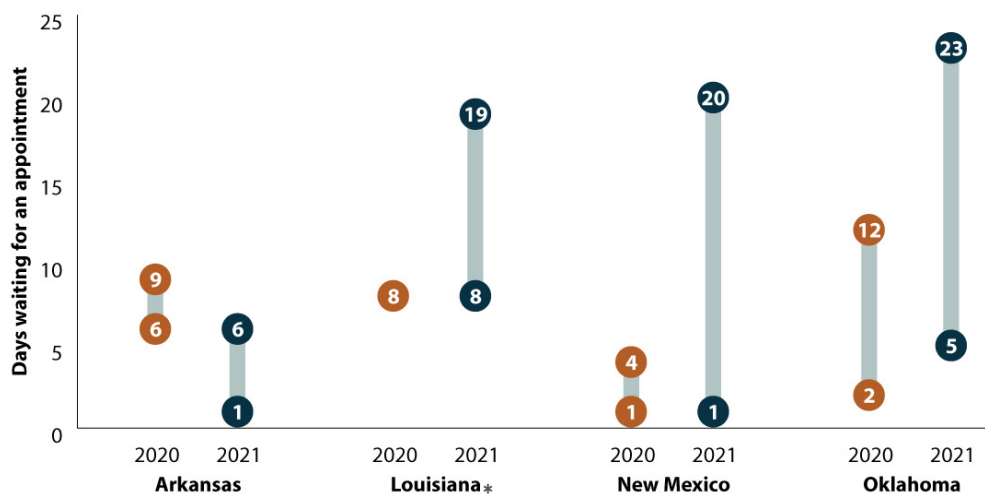


Figure 3. Calls were places to facilities in July 2020 and September 2021. Circles represent the range of days until the next appointment across all facilities. *Two Louisiana facilities did not have appointments available in July 2020; one facility did not have appointments available in Sept. 2021.

Border states at a glance

ARKANSAS

Facilities providing abortion care: 2
Nearest facilities: 313 miles from Dallas

Wait times until first available appt.:
1-6 days Sept. 2021 (6-9 days July 2020)

State-directed counseling required: Yes, in-person
Waiting period after counseling: 72 hours
Requirements for minors: Parental consent

LOUISIANA

Facilities providing abortion care: 3
Nearest facilities: 185 miles from Dallas; 240 miles from Houston; 416 miles from San Antonio

Wait times until first available appt.:
8-19 days Sept. 2021 (8 days July 2020)*

State-directed counseling required: Yes, in-person
Waiting period after counseling: 24 hours
Requirements for minors: Parental consent

*Two Louisiana facilities did not have appointments available in July 2020; one facility did not have appointments available in Sept. 2021

NEW MEXICO

Facilities providing abortion care: 6
Nearest facilities: 20 miles from El Paso; 284 miles from Amarillo; 559 miles from San Antonio

Wait times until first available appt.:
1-20 days Sept. 2021 (1-4 days July 2020)

State-directed counseling required: No
Waiting period after counseling: No
Requirements for minors: No

OKLAHOMA

Facilities providing abortion care: 4
Nearest facilities:
198 miles from Fort Worth; 385 miles from Austin

Wait times until first available appt.:
5-23 days Sept. 2021 (2-12 days July 2020)

State-directed counseling required: Yes
Waiting period after counseling: 72 hours
Requirements for minors: Parental notification and consent



■ Conclusions and implications

The decrease in the number of abortions provided in Texas during the first 30 days that SB8 was in effect was considerably larger than previously documented decreases that followed the implementation of other restrictions, which created widespread disruptions to abortion service delivery in Texas.^{4,8} This large decline indicates that SB8's very narrow criteria for providing in-state abortion care have excluded many pregnant people from obtaining abortions at Texas facilities.

The fact that many facilities maintained pre-SB8 staffing levels in the face of reduced patient volume, coupled with the increased availability of financial assistance for abortion care, may have prevented even greater declines in services.

However, the number of abortions provided at in-state facilities may decrease further the longer SB8 remains in effect. If financial donations decrease over time, patients' out-of-pocket costs will increase. Because many people seeking abortion care in Texas are living on low-incomes, they may be delayed in securing sufficient funding, and even short delays will make them ineligible for services. Additionally, given the decreased client volume, facilities may need to cut staff or reduce clinic hours; this may lead to delays in appointment scheduling and more patients becoming ineligible for in-state abortion because, by the time they get to a facility, providers can detect embryonic cardiac activity.

There is early evidence, in the form of long waiting times for appointments, that Texans seeking out-of-state abortion care are straining capacity at the small number of facilities in nearby states. Services outside of Texas may become more difficult to access if restrictions in other states go into effect, such as Oklahoma's new restrictions on abortion providers and a required mandatory in-person, state-directed counseling visit before medication abortion.¹⁹

As services become further limited in Texas and nearby states, more people will be unable to obtain facility-based abortion care. Among those most affected will be minors who cannot involve a parent in their care, immigrant families who fear encounters with police and border enforcement, parents who have limited childcare options, and people living at or below poverty, many of whom are Black, Latinx, and other people of color. Some may attempt to end their pregnancies on their own, by purchasing medications online, obtaining medications over the counter in Mexico, or resorting to ineffective or harmful measures.^{20,21} Others will be forced to continue their pregnancies, which is associated with adverse health and economic consequences for women and their children.^{22,23}

■ Methods

We estimated the percent change (95% confidence intervals) in the number of in-state abortions using negative binomial regression. We calculated the one-way driving distance from Texas cities to facilities in neighboring states using Stata's `georoute` command. To obtain information in the number of days until the next available appointment at facilities, we used mystery client calls, in which callers contacted facilities and sought information about abortion but did not schedule an appointment.

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References

1. Goldstein I, Zimmer EA, Tamir A, Peretz BA, Paldi E. Evaluation of normal gestational sac growth: appearance of embryonic heartbeat and embryo body movements using the transvaginal technique. *Obstet Gynecol.* 1991;77(6):885-888. PMID: 2030862
2. White K, Sierra G, Dixon L, Sepper E, Moayed G. Texas Senate Bill 8: Medical and Legal Implications. Texas Policy Evaluation Project; 2021. Accessed October 28, 2021. <http://sites.utexas.edu/txpep/files/2021/07/TxPEP-research-brief-senate-bill-8.pdf>
3. Raifman S, Sierra G, Grossman D, Baum SE, Hopkins K, Potter JE, White K. Border-state abortions increased for Texas residents after House Bill 2. *Contraception.* 2021;104(3):314-318. doi:10.1016/j.contraception.2021.03.017.
4. White K, Kumar B, Goyal V, Wallace R, Roberts SCM, Grossman D. Changes in abortion in Texas following an executive order ban during the Coronavirus pandemic. *JAMA.* 2021;325(7):691-693. doi:10.1001/jama.2020.24096.
5. Baum SE, White K, Hopkins K, Potter JE, Grossman D. Rebound of medication abortion in Texas following updated mifepristone label. *Contraception.* 2019;99(5):278-280. doi:10.1016/j.contraception.2019.01.001
6. Grossman D, Baum S, Fuentes L, White K, Hopkins K, Stevenson A, Potter JE. Change in abortion services after implementation of a restrictive law in Texas. *Contraception.* 2014;90(5):496-501. doi:10.1016/j.contraception.2014.07.006.
7. Texas Policy Evaluation Project. Abortion in Texas Fact Sheet. Accessed October 28, 2021. <http://sites.utexas.edu/txpep/files/2021/10/Abortion-in-Texas-Fact-Sheet-Sept.-2021.pdf>
8. Coleman-Minahan K, Stevenson AJ, Obront E, Hays S. Adolescents obtaining abortion without parental consent: their reasons and experiences of social support. *Perspect Sex Reprod Health.* 2020; 52(1):15-22. doi:10.1363/psrh.12132.
9. Grossman D, Sierra G, Hopkins K, Potter JE, White K. Factors associated with delays obtaining abortion care in Texas. *Contraception.* 2020;102(4):288. doi:10.1016/j.contraception.2020.07.053
10. Center of Health Statistics, Arkansas Department of Public Health. Induced Abortion Report, 2020. Accessed October 28, 2021. https://www.healthy.arkansas.gov/images/uploads/pdf/induced_abortions_final_2020.pdf
11. Louisiana Bureau of Vital Records and Statistics. Induced terminations of pregnancy by weeks of gestation and type of procedure, reported occurring in Louisiana, 2019. Accessed October 28, 2021. https://ldh.la.gov/assets/oph/Center-RS/vitalrec/leers/ITOP/ITOP_Reports/Ap19_T22.pdf
12. Data for New Mexico obtained from the Centers for Disease Control and Prevention. Abortions distributed by state, 2018. Atlanta, GA: Centers for Disease Control and Prevention; 2020. Accessed June 30, 2021. https://www.cdc.gov/reproductivehealth/data_stats/excel/abortions-distributed-by-state-2018.csv.
13. Oklahoma State Department of Health. Abortion surveillance in Oklahoma v2, 2002-2020. Accessed October 28, 2021. <https://oklahoma.gov/content/dam/ok/en/health/health2/aem-documents/data-and-statistics/center-for-health-statistics/2020%20AbortionReport.pdf>
14. Guttmacher Institute. Counseling and waiting periods for abortion. 2021. Accessed on October 28, 2021. <https://www.guttmacher.org/print/state-policy/explore/counseling-and-waiting-periods-abortion>
15. Guttmacher Institute. Parental involvement in minors' abortions. 2021. Accessed October 28, 2021. <https://www.guttmacher.org/print/state-policy/explore/parental-involvement-minors-abortions>
16. Roberts SCM, Gould H, Kimport K, Weitz TA, Foster DG. Out-of-pocket costs and insurance coverage for abortion in the United States. *Women's Health Issues.* 2014;24(2):e211-e218. doi:10.1016/j.whi.2014.01.003
17. Fuentes L, Lebenkoff S, White K, Gerds C, Hopkins K, Potter JE, Grossman D. Women's experiences seeking abortion care shortly after the closure of clinics due to a restrictive law in Texas. *Contraception.* 2016;93(4):292-297. doi:10.1016/j.contraception.2015.12.017
18. White K, Sierra G, Vizcarra E, Dixon L, Baum S, Hopkins H, Potter JE, Grossman D. The potential impacts of Texas' executive order on patients' access to abortion care. Texas Policy Evaluation Project. 2021. Accessed October 28, 2021. <http://sites.utexas.edu/txpep/files/2020/03/TxPEP-Research-Brief-Executive-Order-3-31-20.pdf>
19. Oklahoma Supreme Court blocks 3 new anti-abortion laws. *U.S. News.* October 25, 2021. Accessed October 28, 2021. <https://www.usnews.com/news/politics/articles/2021-10-25/oklahoma-supreme-court-blocks-3-new-anti-abortion-laws>
20. Aiken ARA, Starling JE, Gomperts R, Tec M, Scott JG, Aiken CE. Demand for self-managed online telemedicine abortion in the United States during the coronavirus disease 2019 (COVID-19) pandemic. *Obstet Gynecol.* 2020;136(4):835-837. doi:10.1097/AOG.0000000000004081
21. Fuentes L, Baum S, Keefe-Oates B, White K, Hopkins K, Potter JE, Grossman D. Texas women's decisions and experiences regarding self-managed abortion. *BMC Womens Health.* 2020;20(1):6. doi:10.1186/s12905-019-0877-0
22. Ralph LJ, Schwarz EB, Grossman D, Foster DG. Self-reported physical health of women who did and did not terminate pregnancy after seeking abortion services: A cohort study. *Ann Intern Med.* 2019;171(4):238-247. doi:10.7326/M18-1666
23. Foster DG, Ralph LJ, Biggs MA, Gerds C, Roberts SCM, Glymour MA. Socioeconomic outcomes of women who receive and women who