Legal Conflict, Access Issues & Health Disparities

National Cancer Policy Forum

The Impact of the Dobbs Decision on Cancer Care - Webinar 1:
How Abortion Restrictions Affect Patients with Cancer and Cancer Care Delivery

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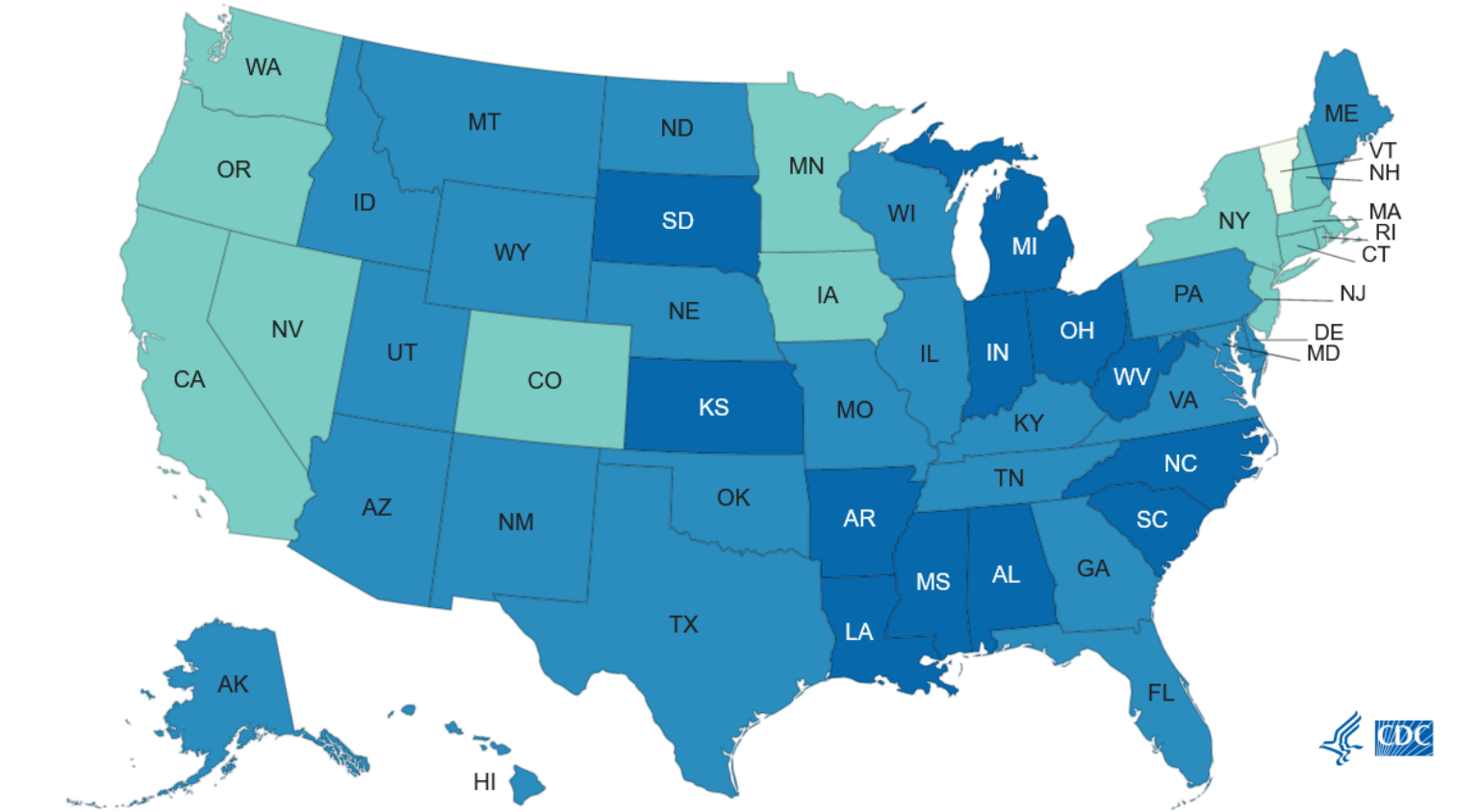
BOSTON UNIVERSITY

U.S. Federalism and Practicing Medicine

- vertical division of power and responsibility between national government and states (or states and localities)
- fundamental feature of U.S. laws
  - US gives states more authority than other nations with federalist governance
- key to legal structure for medicine and public health

Infant Mortality Rates by State

Print

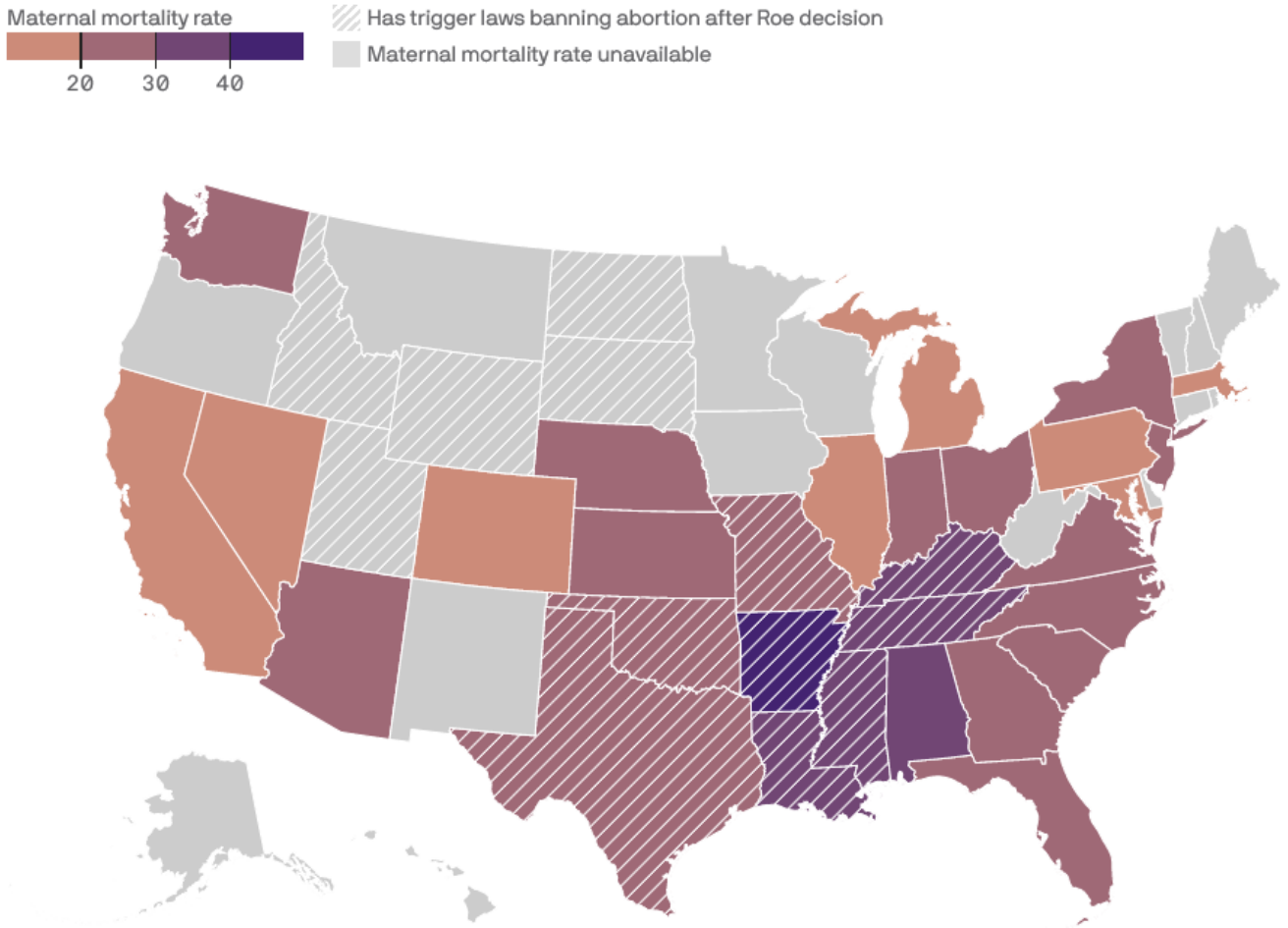


Death Rates[1]

- 0 - < 1.62
- 1.62 - < 3.25
- 3.25 - < 4.87
- 4.87 - < 6.5
- 6.5 - 8.12

2018–2020 maternal mortality rate, by state

Per 100,000 live births; Abortion ban status as of June 27, 2022

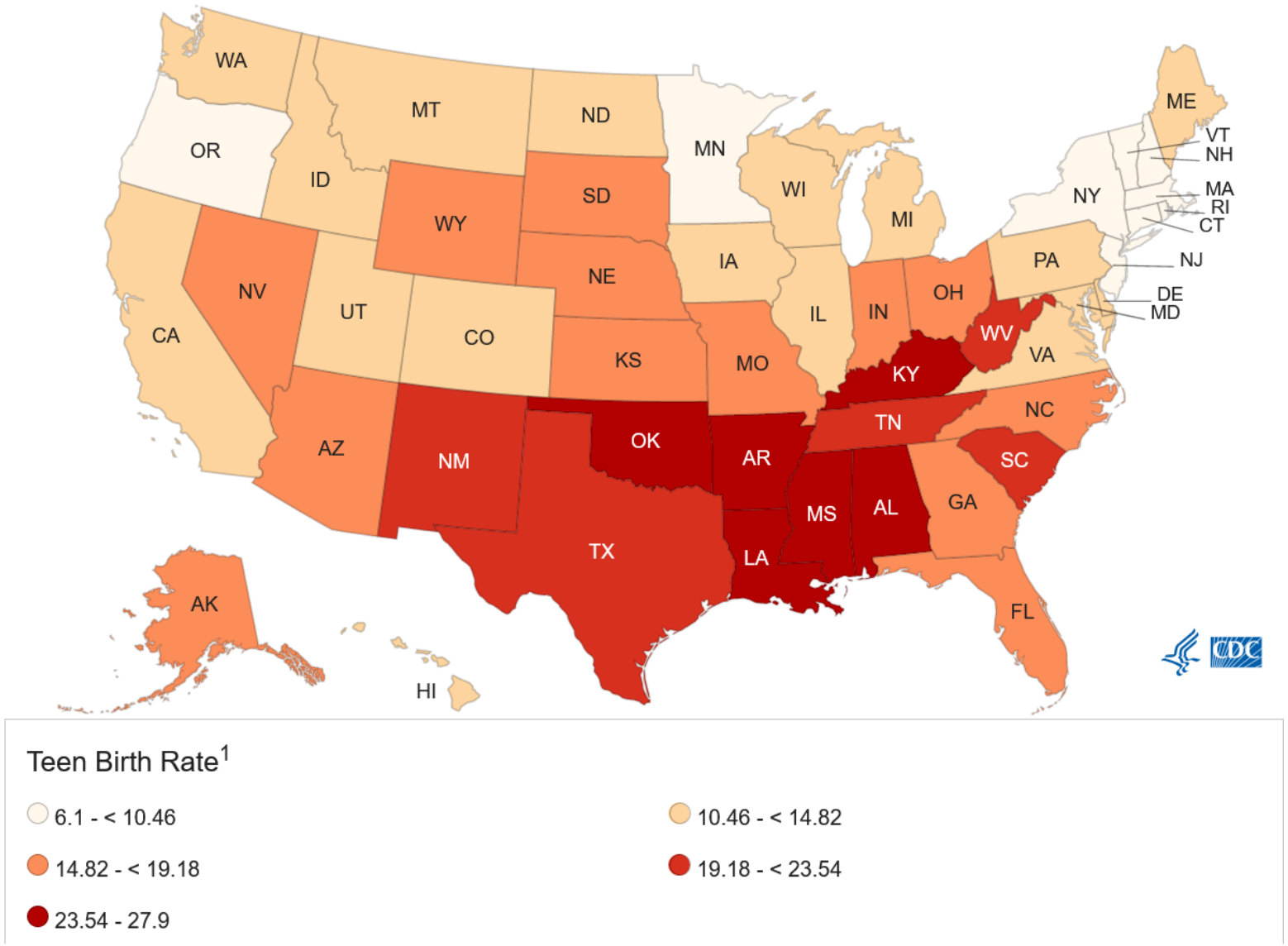


Note: Select mortality data unavailable due to reliability and confidentiality restrictions; Data: CDC; Map: Jacque Schrag/Axios

https://www.axios.com/2022/07/05/maternal-mortality-death-abortion-ban-roe?utm_source=twitter&utm_medium=social&utm_campaign=editorial&utm_content=health-abortion

Teen Birth Rate by State

Print

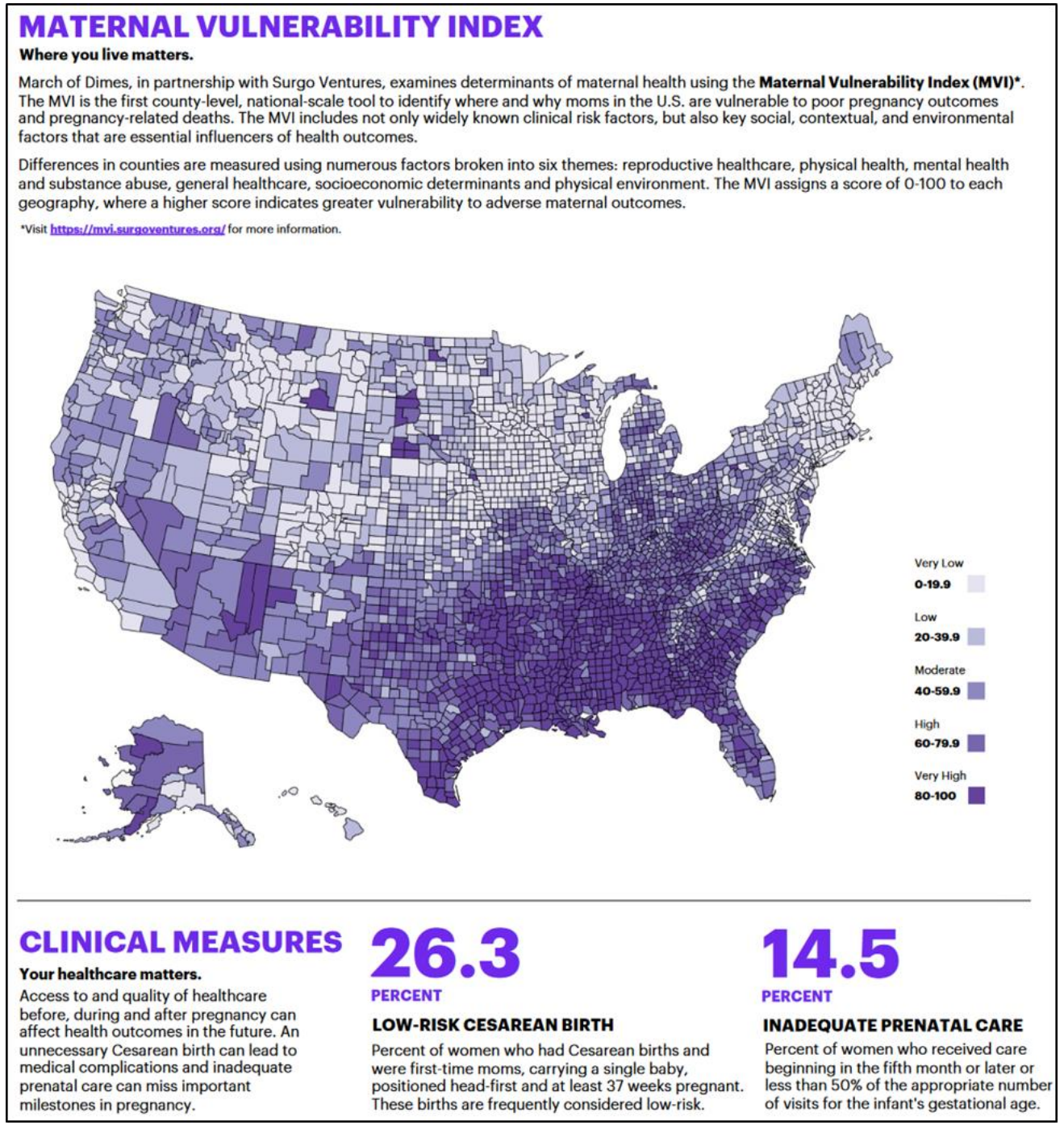


https://www.cdc.gov/nchs/pressroom/sosmap/teen-births/teenbirths.htm

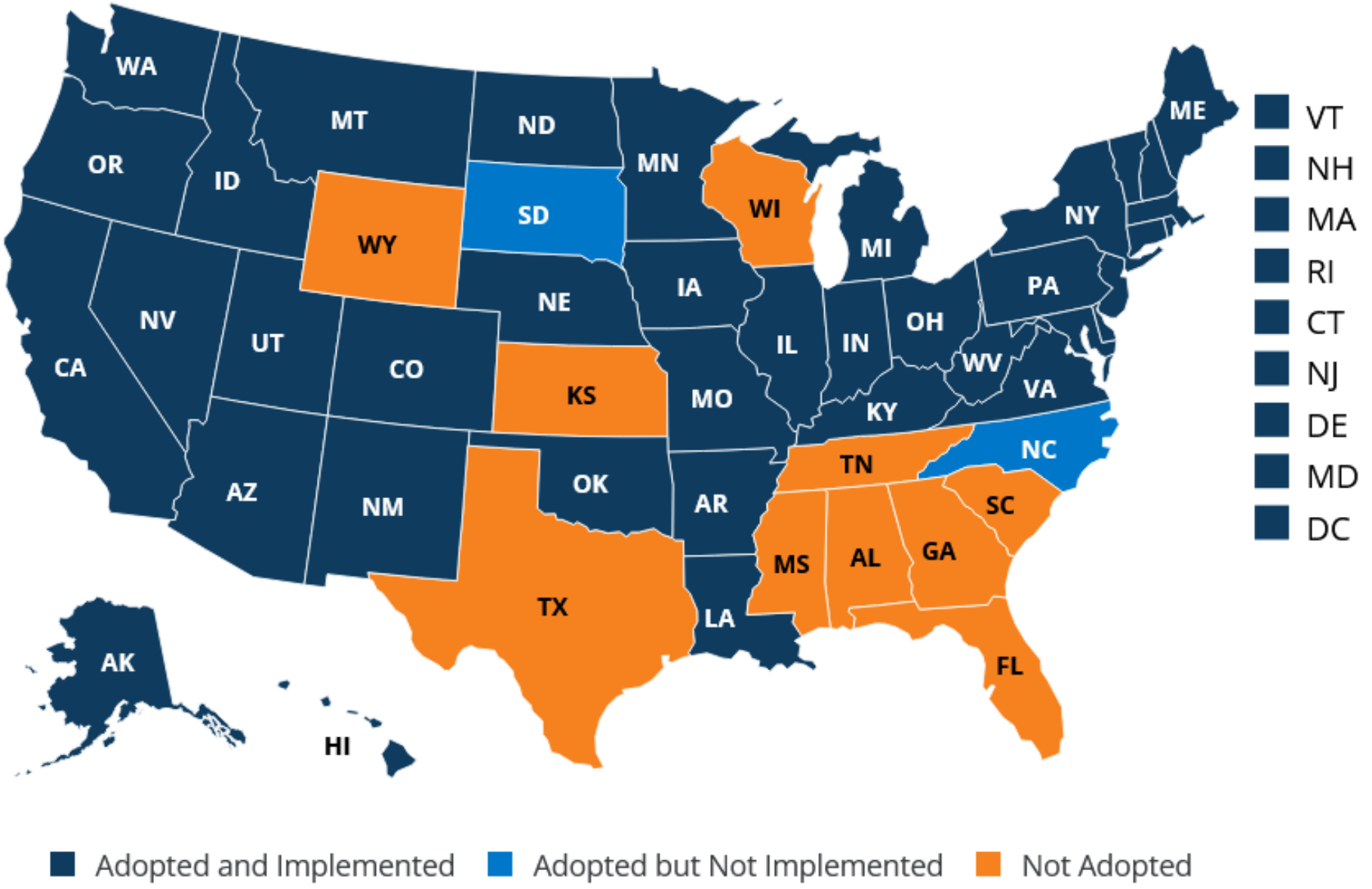
Preterm Births

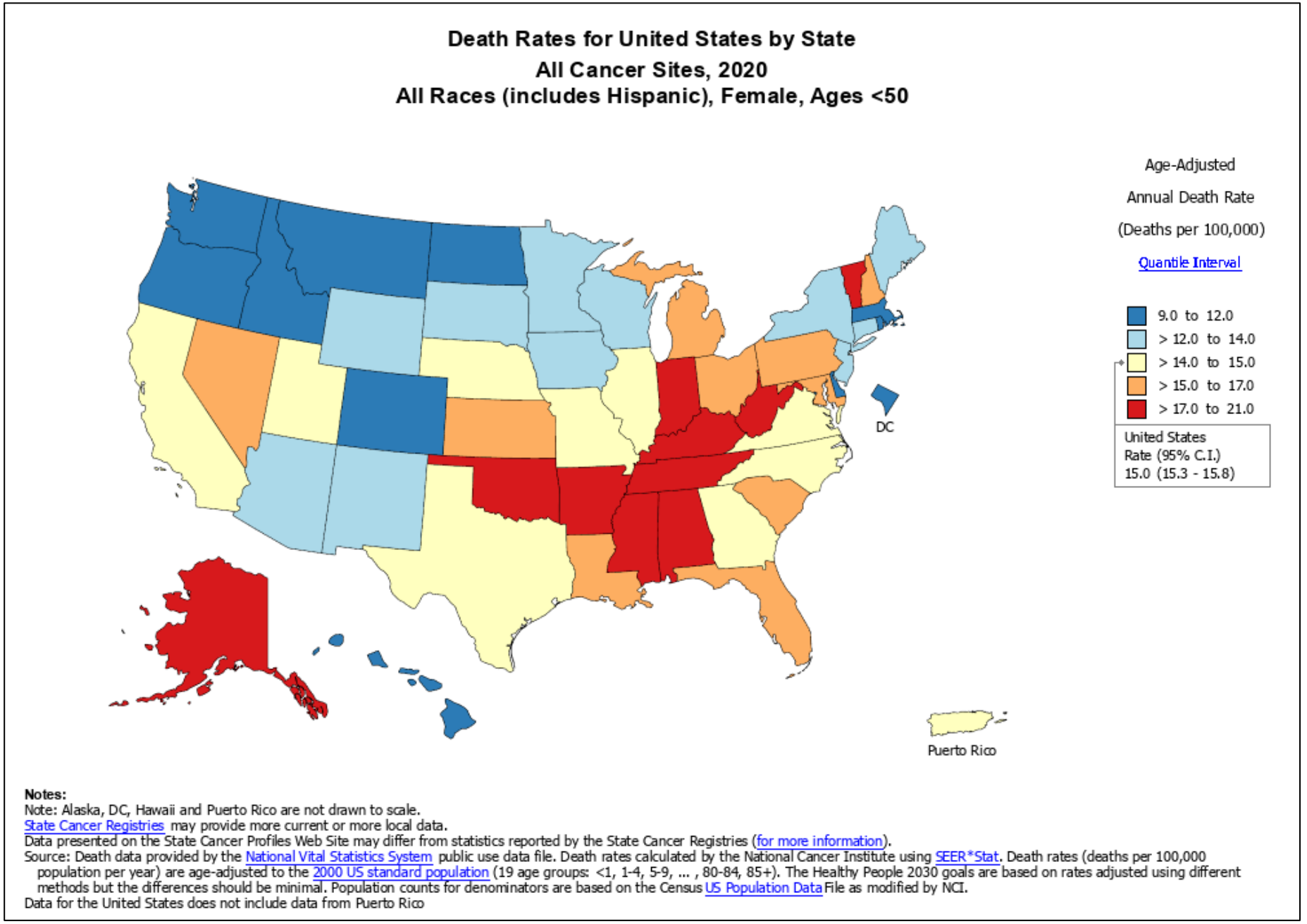
- more likely to deliver prematurely than those in most developed countries – **“D+”**
- high rates of maternal and infant mortality

https://www.marchofdimes.org/sites/default/files/2022-11/2022-MarchofDimes-ReportCard-UnitedStates.pdf



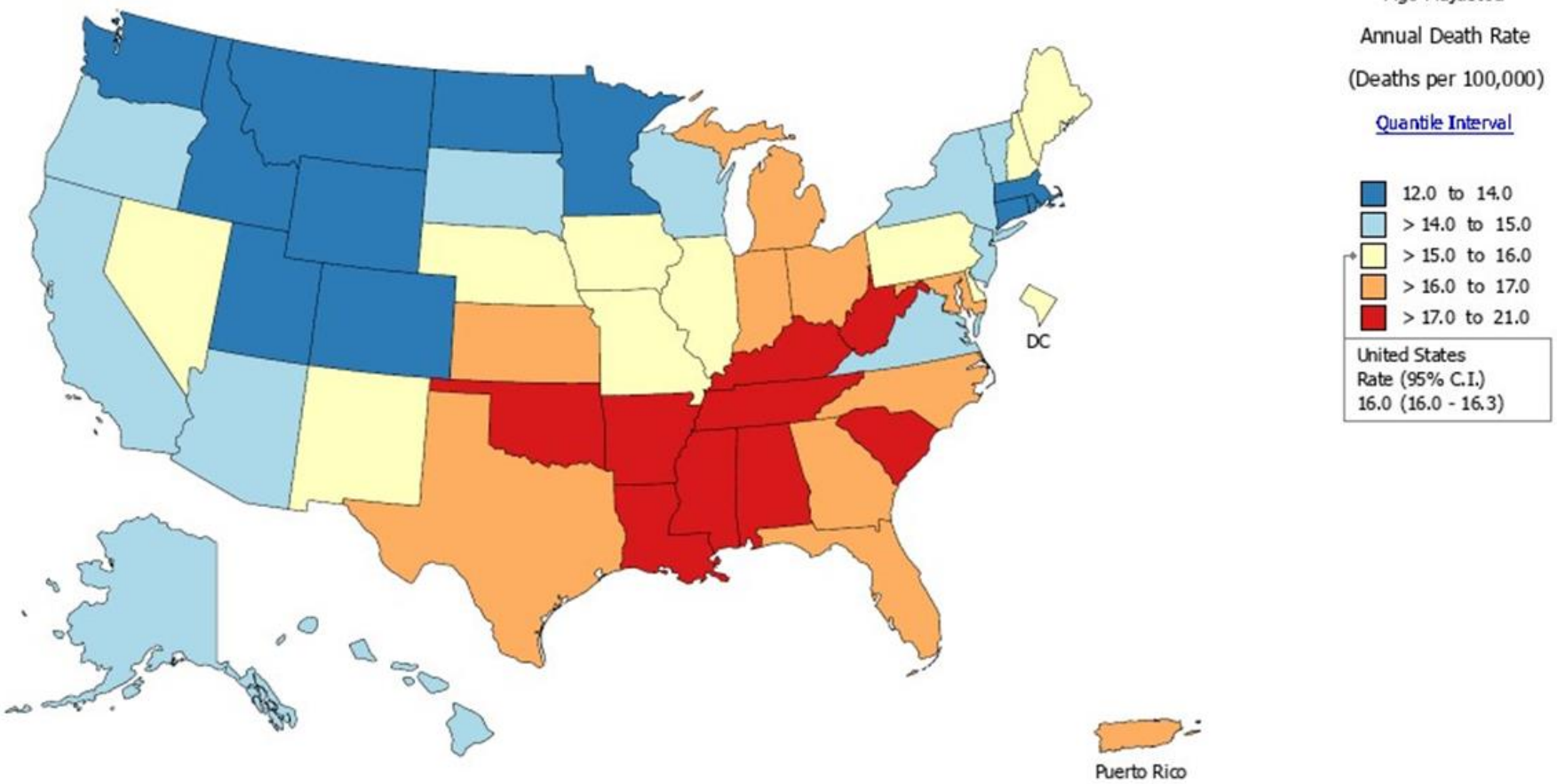
Medicaid Expansion (KFF Map)





Source: CDC State Cancer Profiles https://statecancerprofiles.cancer.gov/map/map.withimage.php?00&state&009&001&00&2&02&1&1&5&0#results

Death Rates for United States by State
All Cancer Sites, 2016 - 2020
All Races (includes Hispanic), Female, Ages <50



Age-Adjusted
Annual Death Rate
(Deaths per 100,000)
Quantile Interval

- 12.0 to 14.0
- > 14.0 to 15.0
- > 15.0 to 16.0
- > 16.0 to 17.0
- > 17.0 to 21.0

United States
Rate (95% C.I.)
16.0 (16.0 - 16.3)

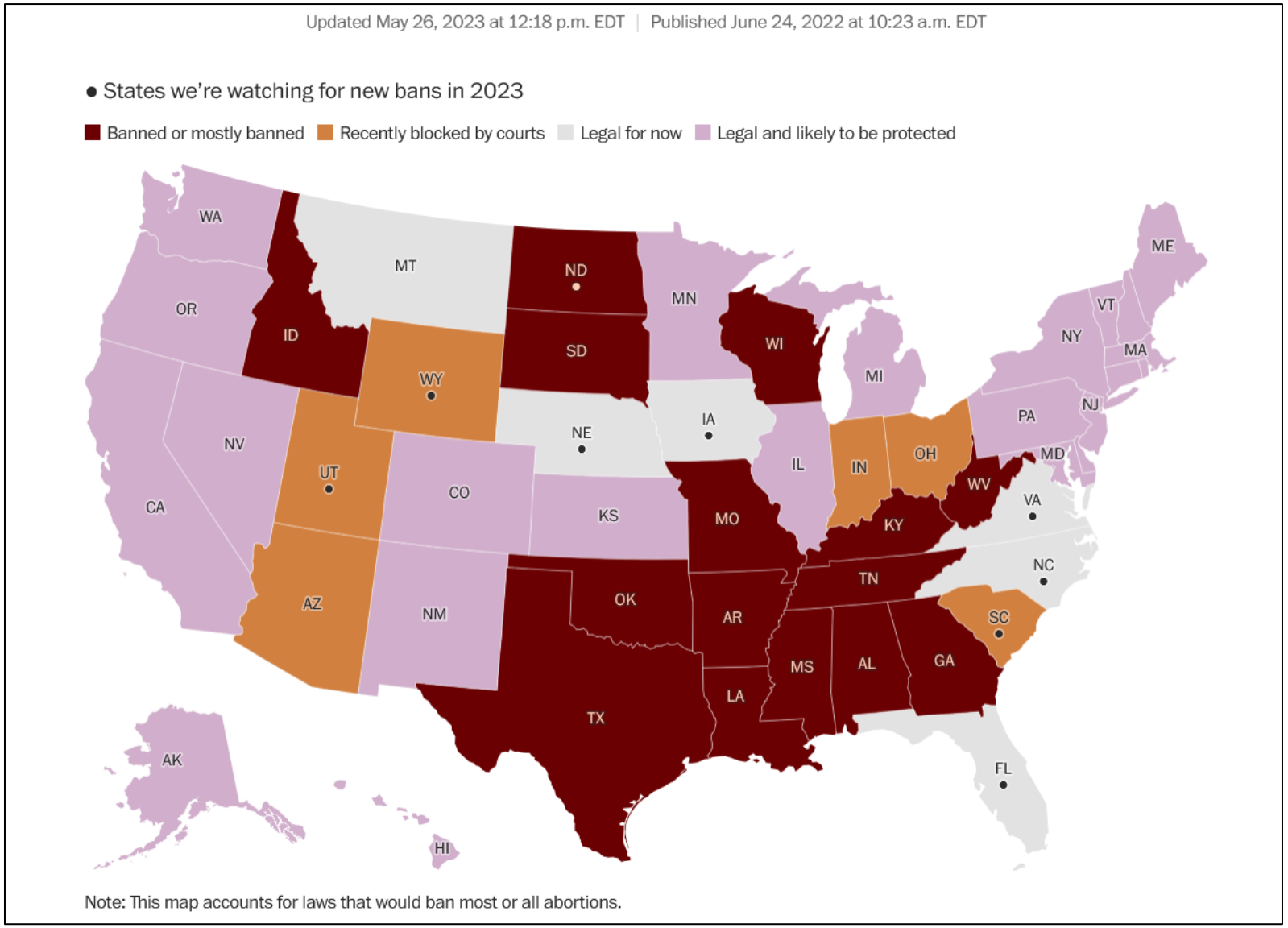
Notes:
Note: Alaska, DC, Hawaii and Puerto Rico are not drawn to scale.
State Cancer Registries may provide more current or more local data.
Data presented on the State Cancer Profiles Web Site may differ from statistics reported by the State Cancer Registries (for more information).
Source: Death data provided by the National Vital Statistics System public use data file. Death rates calculated by the National Cancer Institute using SEER*Stat. Death rates (deaths per 100,000 population per year) are age-adjusted to the 2000 US standard population (19 age groups: <1, 1-4, 5-9, ... , 80-84, 85+). The Healthy People 2030 goals are based on rates adjusted using different methods but the differences should be minimal. Population counts for denominators are based on the Census US Population Data File as modified by NCI.
Data for the United States does not include data from Puerto Rico

DOBBS v. JACKSON WOMEN'S HEALTH

6x

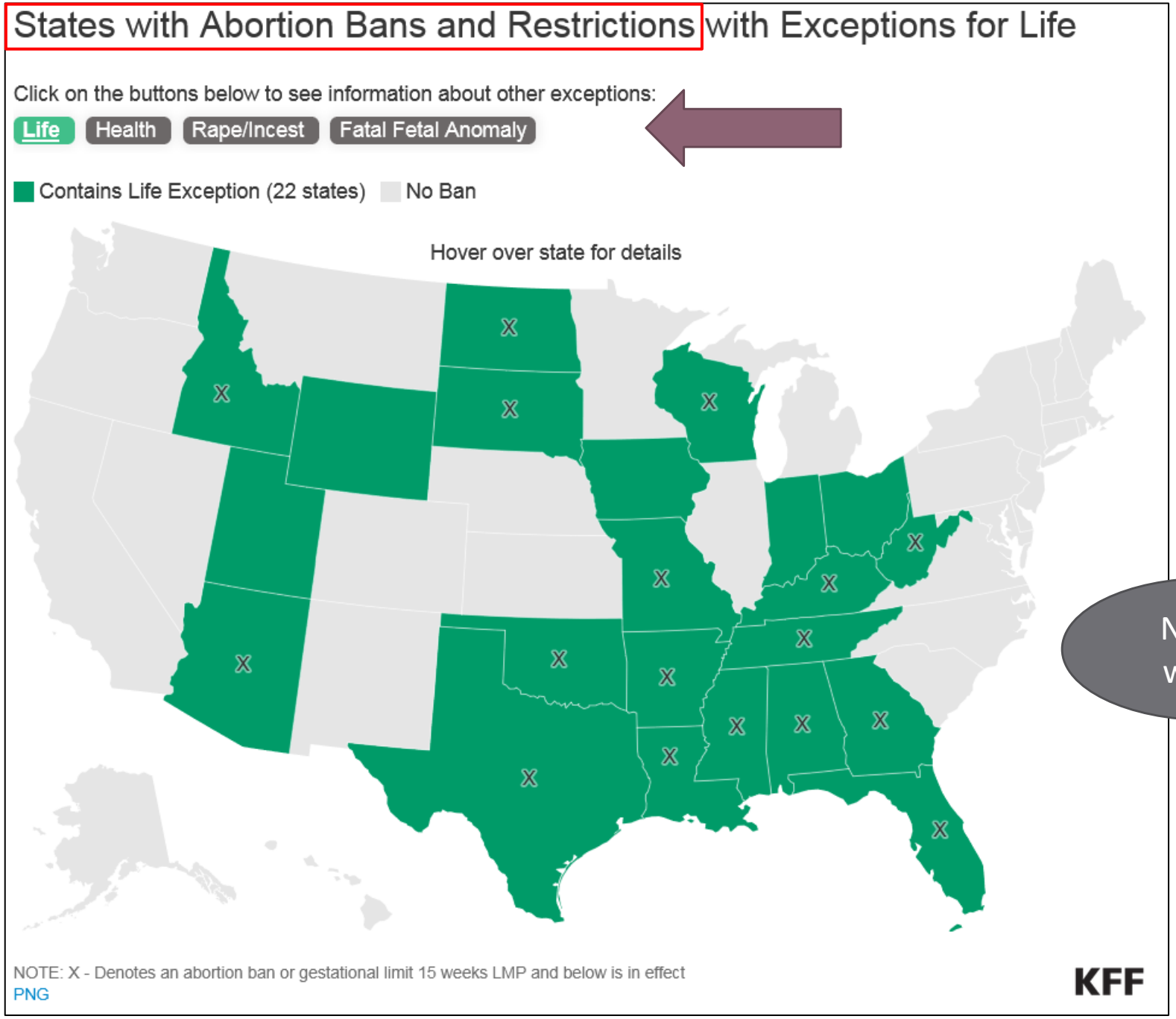
"return the issue of abortion to the people's elected representatives"

After *Dobbs*: "Restrictive States vs Protective States"



https://www.washingtonpost.com/politics/2022/06/24/abortion-state-laws-criminalization-roe/

0 weeks:
AL
AR
ID (also 6 wks)
IN
KY (also 6 + 15 wks)
LA (also 6 + 15 wks)
MO (also **8** + 14 wks)
MS (also 6 + 15 wks)
ND
OK (4 bans)
SD
TN (also 6wks not in effect)
TX (2 bans)
UT
WI
WV
WY (not in effect)
6 weeks:
GA
OH (blocked)
15 weeks:
AZ
FL
22 weeks:
IA (6 wk blocked)
KS
NC
NB
SC (6 wk blocked)



NC: 12 weeks

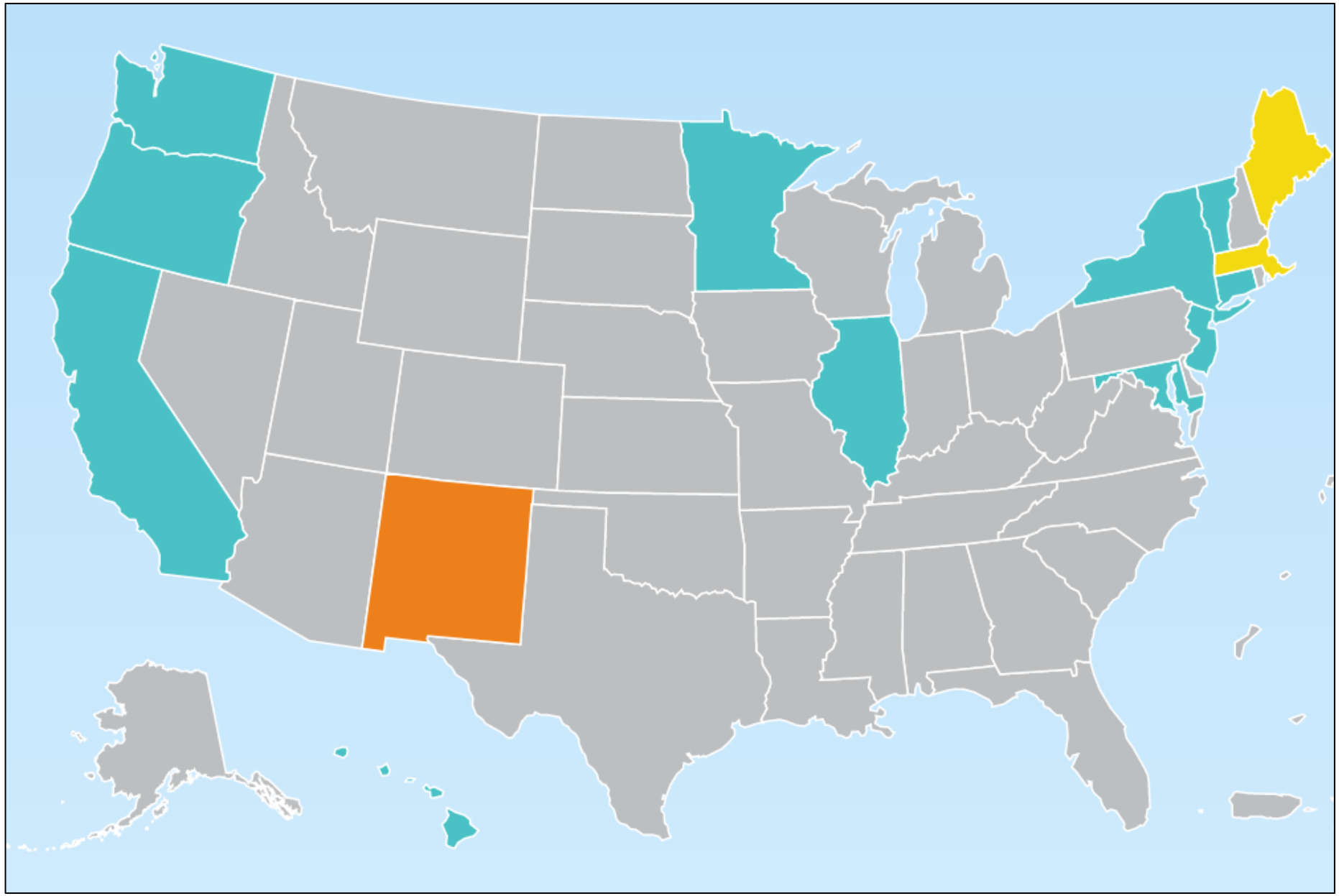
https://www.kff.org/womens-health-policy/issue-brief/a-review-of-exceptions-in-state-abortions-bans-implications-for-the-provision-of-abortion-services/

2023 state legislative session actions – protective examples

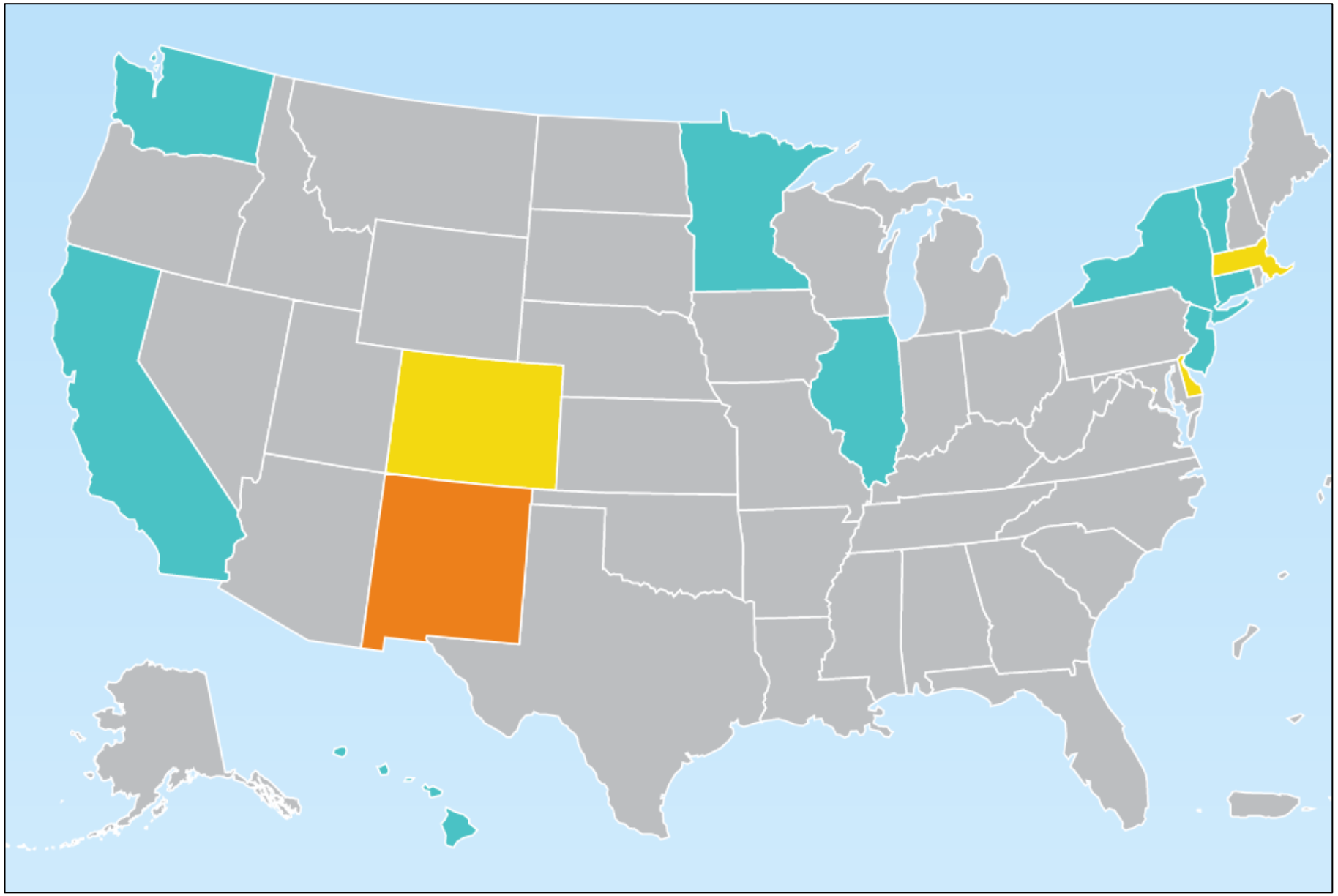
- IL - protecting providers from legal action in other states; expanding types of providers who can perform abortions; preventing higher charges for out-of-network care
- HI - expansion of providers allowed to provide abortion
- MD – statute regulating disclosure of information related to legally protected health care by custodians of public records, exchanges, and electronic health networks
- MN –bill codifying a right to abortion in state law; shield law
- NH – bill to codify abortion rights, remove doctor penalties after 24 weeks; rejected abortion limiting bills
- WA - bill to codify abortion rights in constitution

- ALSO: state constitution decisions – privacy, equality, liberty/autonomy

PUBLIC FUNDING



INTER-STATE SHIELD LAWS



https://reproductiverights.org/maps/abortion-laws-by-state/

Vertical Conflicts

- President's Task Force on Reproductive Healthcare Access
- EMTALA Interpretation + Enforcement
- FDA regulation medication abortion
  - expansion of pharmacy access
- Medicaid (Hyde Amendment)
  https://www.hhs.gov/sites/default/files/hhs-letter-to-governors-reproductive-health-care.pdf
- Comstock Act - DOJ interpretation
- Women's Health Protection Act (bill)

More Fragmentation ➡ More Harm, Inequity

- disrupting field of health law – reliant on comity, compacts, coordination, cooperation for medical licensure, malpractice, public health emergencies, EHR, telehealth, etc.
- confusion, uncertainty, moral distress for physicians, clinicians, residents
  - consistent with history and confusion caused by life-exceptions pre-*Roe*
- increased risk for all people of reproductive age facing cancer and other illness or injury
- *especially* already-vulnerable populations

- "[my] hands were tied"
- "When I objectively look at her case, there is no way that this woman['s pregnancy] was going to make it to [fetal] viability (6+ [additional] weeks) and [she] was becoming clinically unstable. The paralysis [shown by] not treating this inevitable abortion …demonstrated that physicians are perseverating about whether they can legally provide standard-of-care medical treatment."
- "I overheard the primary provider say to a nurse that so much as offering a helping hand to a patient getting onto the gurney while in the throes of a miscarriage could be construed as 'aiding and abetting an abortion.' Best not to so much as touch the patient who is miscarrying... A gross violation of common sense and the oath I took when I got into this profession to soothe my patients' suffering."
- "…a patient with a postpartum hemorrhage who needed a D&C, and labor and delivery staff initially refused to participate, stating that 'D&Cs were now illegal for any reason.'"

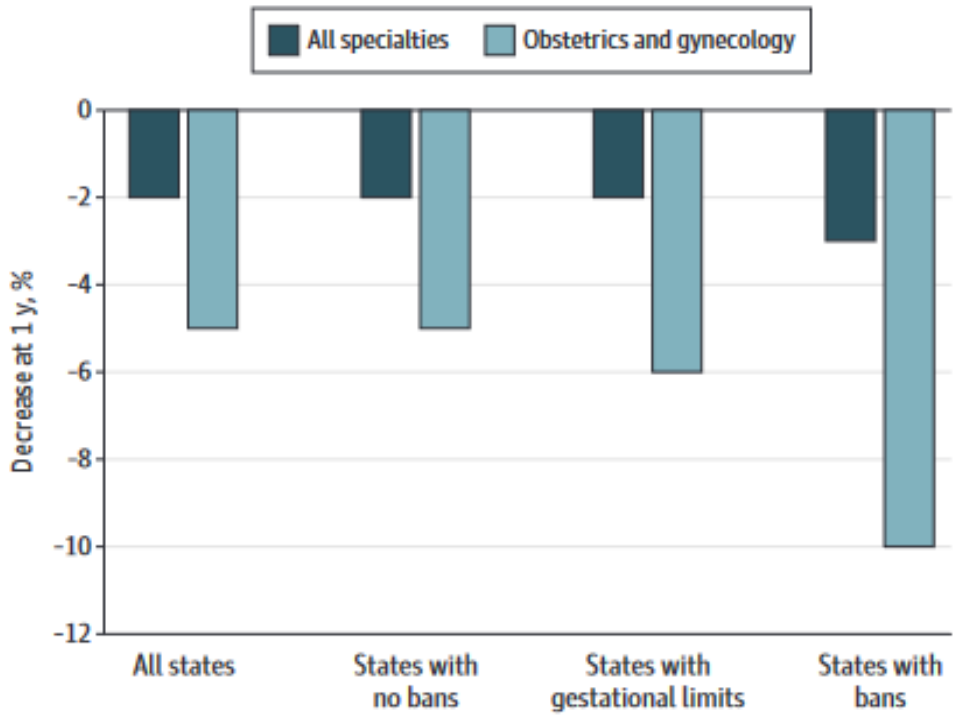
"A [patient] came today seeking an abortion. She traveled on an airplane for the first time ever [from a state with an abortion ban], using her whole paycheck to buy tickets, rent a hotel. She left our clinic today by [emergency medical services], transported to the local [emergency department (ED)] for suicidal ideation. She was raped two months ago. Each episode of morning sickness causes [post-traumatic stress disorder (PTSD)] so intense she tried to take her life yesterday. If abortion was legal in her home state, several things would be different 1) she could have accessed an abortion more promptly 2) perhaps therefore she wouldn't have had an escalation of PTSD such that she tried to kill herself, [and] 3) she'd have more money in her bank account, super important given she's a single parent and her family who doesn't support abortion even in cases of rape, just kicked them both out. She did not get her abortion in our clinic today because she felt she was too emotionally unstable, that she wanted to go to the ED first. I fully support her decision to know herself best, and to decide for herself. I fear for her life, the ongoing pregnancy, her young child. I fear she won't have money to return and get her abortion. I fear she could kill herself first."

Medical Practice and Training Implications

VIEWPOINT

A Physician Crisis in the Rural US May Be About to Get Worse

Figure. One-Year Decrease in US MD Senior Applicants by Abortion Ban Status



While applicants can apply across state lines, these percentage changes are based on the unique number of applicants by ban status across specialties from the 2021-2022 to 2022-2023 application cycles. Ban status data as of January 20, 2023, are from KFF (https://www.kff.org/other/state-indicator/abortion-policy-tracker/). All specialties includes obstetrics and gynecology. Source: 2021-2023 Electronic Residency Application Service.

https://jamanetwork-com.ezproxy.bu.edu/journals/jama/articlepdf/2806454/jama_grover_2023_vp_230052_1687532934.54081.pdf; https://www.aamc.org/advocacy-policy/aamc-research-and-action-institute/training-location-preferences