

United States Senate

WASHINGTON, DC
20510

March 27, 2023

The Honorable Lloyd J. Austin
Secretary of Defense
Department of Defense
1000 Defense Pentagon
Washington, D.C. 20301

Dear Secretary Austin:

We write to express our strong support for the personnel policies the Department of Defense issued on February 16, 2023, consistent with your October 20, 2022 directive, to ensure service members and their families can access necessary reproductive health care, including access to abortion and fertility care. Currently, 13 states have a total ban on abortion and other states are moving to severely limit access to abortion services.^[1] Given the restricted access to abortion care that service members face following the Supreme Court's June 2022 ruling in *Dobbs v. Jackson Women's Health Organization*, we are encouraged by your new travel and transportation, and administrative leave policies in support of reproductive health care, including abortion, and we urge you to consider the availability of such care when considering the unique vulnerabilities service members face in deployments, military recruitment and retention efforts and U.S. military basing decisions. In addition, with a pending federal lawsuit threatening the Food and Drug Administration's approval of mifepristone, one of two medications most commonly used in medication abortion, it is imperative that the Department of Defense continue to take action to protect the rights of service members and their families to access abortion care.

Following the *Dobbs* decision, the RAND Corporation estimates that 40% of active duty women serving in the continental United States face limited or no access to abortion services where they are stationed.^[2] When service members are assigned to duty stations either domestically or overseas, their placement is determined by the needs of the U.S. military. Women service members, who make up approximately 17% of active duty military^[3], have no say in where they are stationed, even if their duty station is in a state that severely limits or restricts access to abortion or other critical reproductive health services. It is unacceptable that service members or their dependents should face limited or no access to abortion care simply because of where they are stationed as part of their service to the United States.

State laws restricting or prohibiting our service members from accessing reproductive care send a message that the United States does not trust those who serve in uniform – whom we trust to protect our country – to make their own decisions about their health care and families. These laws also jeopardize the health and overall readiness of our military. Prior to the *Dobbs* decision, most service members sought abortion care through civilian clinics, at their own expense, because abortion care was prohibited under TRICARE and at military treatment facilities except in certain circumstances. In the aftermath of decision, state laws further restricting the right of service members to make their own decisions about their health care will not stop service members from needing or seeking care. Abortion restrictions and bans only force service members to travel farther to states that have not restricted abortion, further compromising both the financial security of the service members and military readiness. Our service members should

not be forced to needlessly risk their personal health and safety for routine health care simply because they pledged to protect and defend our nation.

The *Dobbs* decision also exacerbates our military's recruitment and retention efforts. Many join the military in pursuit of economic security and a successful career, and with the promise that the Department of Defense will protect their health and well-being. However, last year, the Department warned that the U.S. military is facing the most significant recruiting challenges in more than 50 years.^[4] The recruitment challenges we face align with our inability to retain those already serving in uniform, depriving us of the next generation of uniformed senior leaders and leaving us short of the personnel we need to meet the national security needs of our nation. Recruiting and retention will only be made more challenging as states continue to ban or restrict access to abortion services, sending a message that certain service members' autonomy and ability to get the health care they need does not matter, and putting into place additional barriers and undue burdens for service members and their families.

The Department of Defense should also consider the availability and accessibility of health care, including abortion and reproductive care, when making basing decisions, and swiftly develop a framework for major basing and personnel decisions that accounts for state and local laws restricting access to reproductive health care. Just as basing criteria weigh a variety of conditions such as local educational resources and cost of living, so should the Department take into consideration the consequence of locating new installations and missions in states that would adversely impact the reproductive rights of those required to work there. The Department must also consider the numerous barriers that service members still face in accessing abortion care under its new policy, including stigma and discrimination, out-of-pocket costs, delayed wait times, and the volatility of abortion access from state to state as legislatures move to enact abortion bans.

We are committed to ensuring the full implementation of the Department's reproductive care policies and will continue to advocate for the freedoms of our service members and their families, and their right to make their own decisions about their health care. We appreciate your continued attention to these matters and thank you for defending the rights of those who serve our nation.

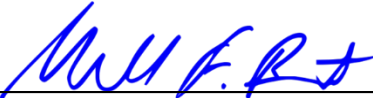
Sincerely,



Jeanne Shaheen
Jeanne Shaheen
United States Senator



Mazie Hirono
Mazie Hirono
United States Senator



Michael F. Bennet
United States Senator



Richard J. Durbin
United States Senator



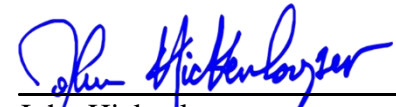
Kirsten Gillibrand
United States Senator



Tammy Baldwin
United States Senator



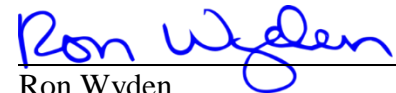
Bernard Sanders
United States Senator



John Hickenlooper
United States Senator



Elizabeth Warren
United States Senator



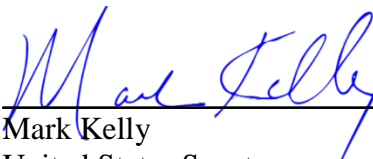
Ron Wyden
United States Senator



Catherine Cortez Masto
United States Senator



Tammy Duckworth
United States Senator



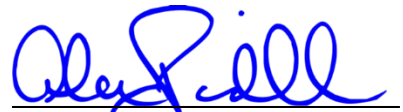
Mark Kelly
United States Senator



Tina Smith
United States Senator



Amy Klobuchar
United States Senator



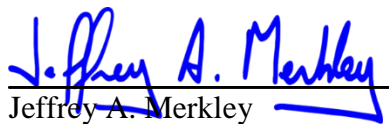
Alex Padilla
United States Senator



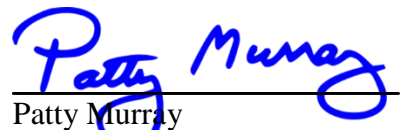
Christopher S. Murphy
United States Senator



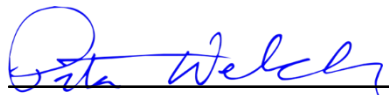
Jacky Rosen
United States Senator



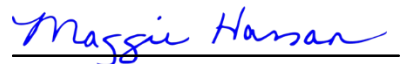
Jeffrey A. Merkley
United States Senator



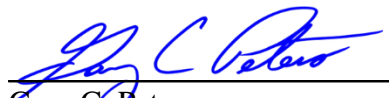
Patty Murray
United States Senator



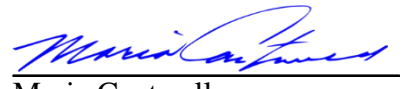
Peter Welch
United States Senator



Margaret Wood Hassan
United States Senator



Gary C. Peters
United States Senator



Maria Cantwell
United States Senator



Benjamin L. Cardin
United States Senator



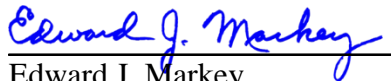
Thomas R. Carper
United States Senator



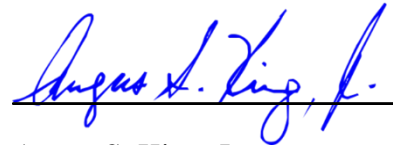
Sheldon Whitehouse
United States Senator



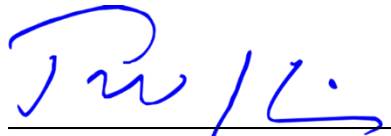
Cory A. Booker
United States Senator



Edward J. Markey
United States Senator



Angus S. King, Jr.
United States Senator



Tim Kaine
United States Senator



Dianne Feinstein
United States Senator



Christopher A. Coons
United States Senator



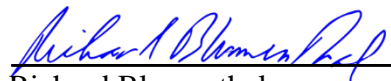
Chris Van Hollen
United States Senator



Sherrod Brown
United States Senator



Mark R. Warner
United States Senator



Richard Blumenthal
United States Senator



Martin Heinrich
United States Senator

[1] The New York Times, *Tracking the states where abortion is now banned*. The New York Times, 2022.
<https://nytimes.com/interactive/2022/us/abortion-laws-roe-v-wade.html>

[2] Hunter, Kyleanne M., Sarah O. Meadows, Rebecca L. Collins, and Isabelle González, *How the Dobbs Decision Could Affect U.S. National Security*. Santa Monica, CA: RAND Corporation, 2022. <https://www.rand.org/pubs/perspectives/PEA2227-1.html>.

[3] *Department of Defense releases annual demographics report - upward trend in number of women*. U.S. Department of Defense. Department of Defense, December 14, 2022. Retrieved from <https://www.defense.gov/News/Releases/Release/Article/3246268/departement-of-defense-releases-annual-demographics-report-upward-trend-in-numbe/#:~:text=In%202021%2C%20women%20made%20up,and%20reserves%20at%20171%2C000%20members>.

[4] Tiron, R. (2022, September 21). *US military faces biggest recruiting hurdles in 50 years (1)*. Bloomberg Government. Retrieved from <https://about.bgov.com/news/us-military-services-face-biggest-recruiting-hurdles-in-50-years/#:~:text=The%20Army%20is%20facing%20the,chief%20of%20staff%20for%20personnel>.