

Congress of the United States
Washington, DC 20510

February 1, 2024

President Joseph R. Biden
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

The Honorable Merrick B. Garland
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

The Honorable Xavier Becerra
Secretary
United States Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear President Biden, Attorney General Garland, and Secretary Becerra:

We write to bring to your attention the longstanding pattern of criminalization of people on the basis of their pregnancies and pregnancy outcomes that has intensified in the wake of *Dobbs v. Jackson Women's Health Organization*. One alarming example of this was the case of Brittany Watts, an Ohio woman who was unjustly charged with a crime related to her miscarriage. While a grand jury refused to move the case forward, irreparable harm has already been done and we must ensure this never happens to anyone again. We urge you to provide all legal and medical support available within your respective authorities to prevent the criminalization of pregnancies and pregnancy outcomes.

Brittany Watts, like thousands of other people across the country each year, miscarried at her home. When she sought follow-up care at a hospital, the hospital staff reported her to the police. Her experience is all too common for Black women, who disproportionately experience adverse pregnancy outcomes due to inadequate health care, and disproportionately experience disrespect, abuse, and punitive responses when they seek pregnancy-related care. Instead of being given the care and support that any person who has experienced a miscarriage deserves, Ms. Watts was interrogated by law enforcement and had her home invaded by the police. She was then arrested and wrongly charged with abuse of a corpse, a fifth-degree felony in Ohio punishable by up to a year in prison and a \$2,500 fine. While the grand jury ultimately refused to allow a case against

her to proceed, the fact that Ms. Watts faced degrading law enforcement interrogation and that such a case was even brought forward at all is alarming and cruel.

It is also part of a larger pattern of people subjected to criminal investigations and arrests, civil penalties, loss of custody of children, and reputational harm related to their pregnancy or their pregnancy outcome.¹ These punitive efforts disproportionately target Black and Indigenous people, other people of color, and women with low incomes. The *Dobbs* decision has only escalated efforts to charge people with crimes related to their pregnancies, and we are deeply concerned about this sharp increase in the criminalization of pregnant people - all of whom deserve the right to control their own bodies, lives, and futures.

When individuals like Ms. Watts cannot seek medical care for pregnancy-related conditions without fear of discrimination and criminalization, our health care system and our justice system have failed. Systemic racism, implicit bias, unequal access to quality care, and inequities in social determinants of health have facilitated a system where women of color are more likely to experience pregnancy complications and be punished more often for seeking health care. Moreover, the normalization of this alarming pattern will only reinforce the justified fear of discrimination and criminalization that many pregnant people already feel when making decisions about their health and will deter people from accessing essential health care.

We urge you to use your authority, and all existing remedies at your Departments' disposal, to provide direct public educational, financial, and legal services support to any person who experiences or is threatened with pregnancy criminalization, and to interrupt that criminalization before it occurs and remedy its aftermath by taking these additional steps:

- Investigating any prosecutions of people with pregnancy-related conditions as unlawful under federal statutes that prohibit discrimination by law enforcement on the basis of sex, including on the basis of pregnancy;
- Reiterating hospital and medical staff obligations to maintain patient privacy under the Health Insurance Portability and Accountability Act, investigating when there is evidence that patient privacy has been breached, and pursuing appropriate legal remedies against violators; and
- Enforcing Section 1557 of the Affordable Care Act, which prohibits discrimination in health care on the basis of sex, including on the basis of pregnancy, against federally-funded health care entities whose personnel improperly report to law enforcement when patients miscarry, terminate a pregnancy, or seek other pregnancy-related care.

As some states seek to increase criminal investigations of pregnancy outcomes like miscarriages and stillbirths, we must work to ensure that all people have access to the medical care and legal protections afforded to them under federal law. We appreciate your ongoing commitment to

¹ Pregnancy Justice. *Confronting Pregnancy Criminalization: A Practical Guide for Healthcare Providers, Lawyers, Medical Examiners, Child Welfare Workers, and Policymakers* (July 2022).
<https://www.pregnancyjusticeus.org/wp-content/uploads/2022/12/202211-PJ-Toolkit-Update-2.pdf>

defending the rights of all people who seek reproductive health care and the actions that the Biden-Harris Administration has taken to protect access to reproductive health care after *Dobbs*. Thank you in advance for considering this request, and we look forward to your timely response.

Sincerely,



Joyce Beatty
White House Liaison
Democratic Women's Caucus



Lois Frankel
Chair
Democratic Women's Caucus



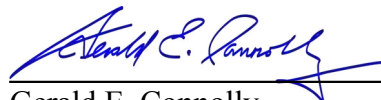
Teresa Leger Fernández
Member of Congress
Vice Chair, Democratic
Women's Caucus



Nikema Williams
Vice Chair
Democratic Women's Caucus



Bonnie Watson Coleman
Member of Congress



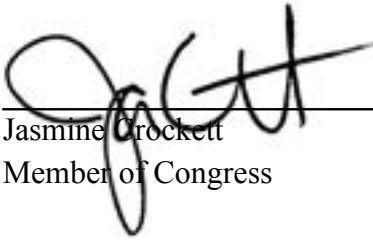
Gerald E. Connolly
Member of Congress



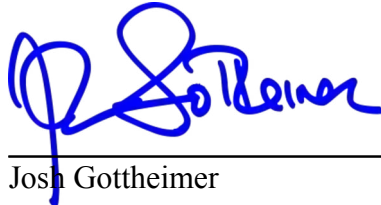
Donald M. Payne, Jr.
Member of Congress



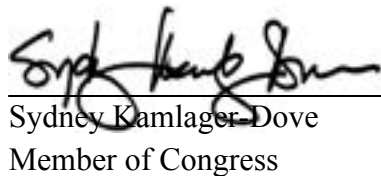
Frederica S. Wilson
Member of Congress



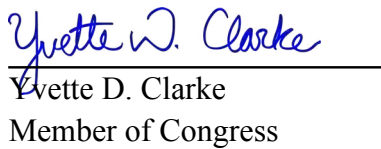
Jasmine Crockett
Member of Congress



Josh Gottheimer
Member of Congress



Sydney Kamlager-Dove
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Yvette D. Clarke
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Doris Matsui
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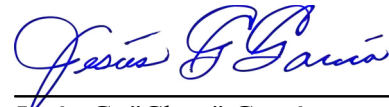
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Member of Congress



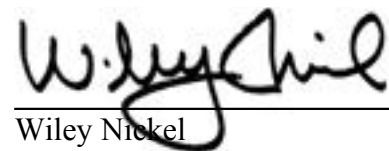
Katie Porter
Member of Congress




Gwen S. Moore
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Jesús G. "Chuy" García
Member of Congress



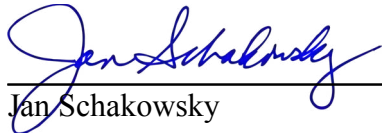
Wiley Nickel
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Greg Landsman
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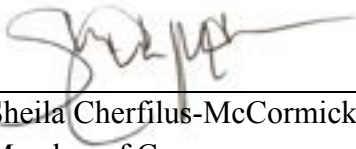
Rashida Tlaib
Member of Congress



Jan Schakowsky
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Lloyd Doggett
Member of Congress



Sheila Cherfilus-McCormick
Member of Congress



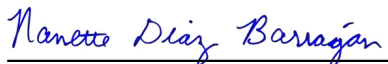
Eleanor Holmes Norton
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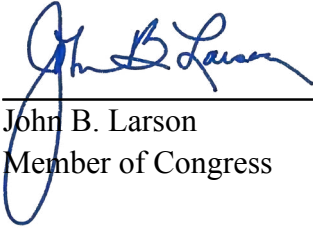
Dwight Evans
Member of Congress



Alma S. Adams, Ph.D.
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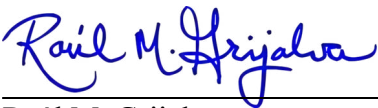
Adam B. Schiff
Member of Congress



John B. Larson
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Jason Crow
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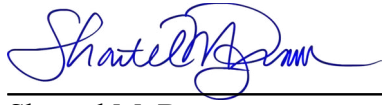
Raúl M. Grijalva
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Adam Smith
Member of Congress



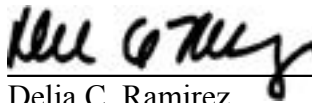
Lucy McBath
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Cori Bush
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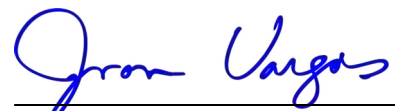
Julia Brownley
Member of Congress



Norma J. Torres
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Adriano Espaillat
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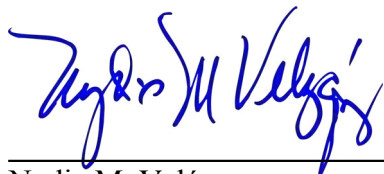
Juan Vargas
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Sean Casten
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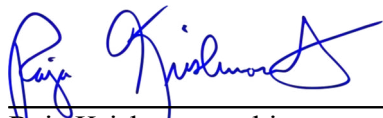
Scott H. Peters
Member of Congress



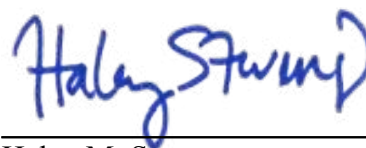
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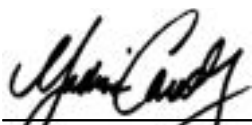
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Lauren Underwood
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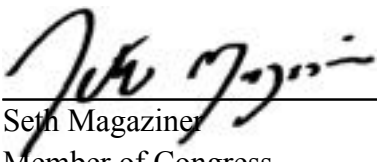
Mike Thompson
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Yadira Caraveo M.D.
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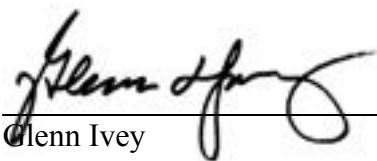
Ted W. Lieu
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Seth Magaziner
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Melanie Stansbury
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Glenn Ivey
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Mary Gay Scanlon
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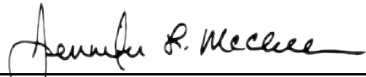
Marilyn Strickland
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Lizzie Fletcher
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Susie Lee
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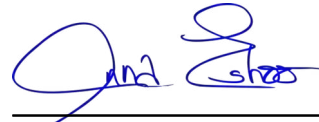
Jennifer L. McClellan
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Terri A. Sewell
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Seth Moulton
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Anna G. Eshoo
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Jim Tokuda
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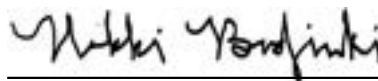
John Garamendi
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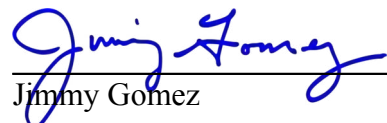
Brad Sherman
Member of Congress



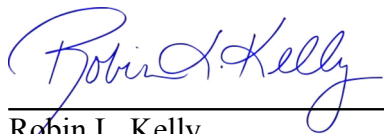
Ann McLane Kuster
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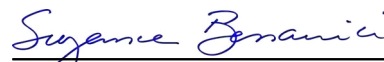
Nikki Budzinski
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Jimmy Gomez
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Robin L. Kelly
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Suzanne Bonamici
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Joaquin Castro
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Angie Craig
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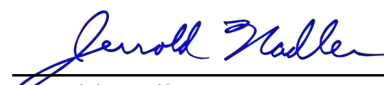
Bill Pascrell, Jr.
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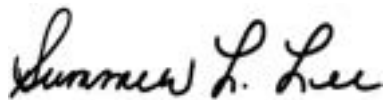
Lisa Blunt Rochester
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Andy Kim
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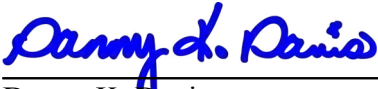
Jerrold Nadler
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Summer Lee
Member of Congress



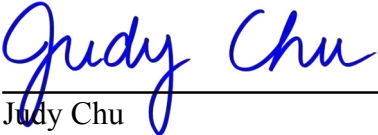
Chris Pappas
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Danny K. Davis
Member of Congress



Sheila Jackson Lee
Member of Congress



Judy Chu
Member of Congress



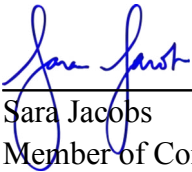
Matt Cartwright
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Stacey E. Plaskett
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Jamie Raskin
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Sara Jacobs
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Debbie Wasserman Schultz
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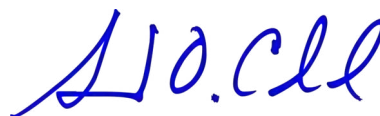
Tony Cárdenas
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Darren Soto
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Sylvia R. Garcia
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Salud Carbajal
Member of Congress



Marcy Kaptur
Member of Congress



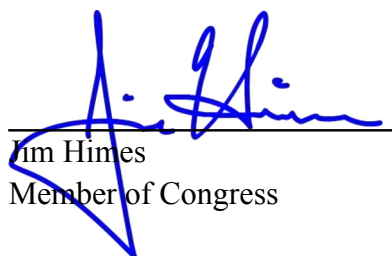
Suzan K. DelBene
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Becca Balint
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André Carson
Member of Congress



Jim Himes
Member of Congress



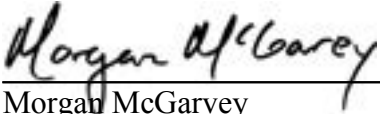
Robert C. "Bobby" Scott
Member of Congress



Mark Pocan
Member of Congress



Grace F. Napolitano
Member of Congress



Morgan McGarvey
Member of Congress



Jennifer Wexton
Member of Congress



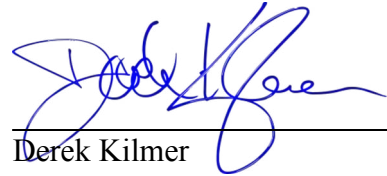
Jake Auchincloss
Member of Congress



Rick Larsen
Member of Congress



Rosa L. DeLauro
Member of Congress



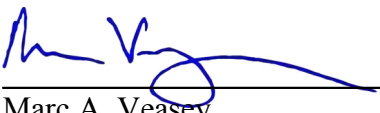
Derek Kilmer
Member of Congress



Kathy E. Manning
Member of Congress



Mary Sattler Peltola
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Marc A. Veasey
Member of Congress



Emanuel Cleaver, II
Member of Congress



Valerie P. Foushee
Member of Congress



Ruben Gallego
Member of Congress



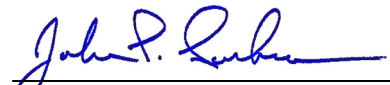
Colin Z. Allred
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Joseph D. Morelle
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Ritchie Torres
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John P. Sarbanes
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Alexandria Ocasio-Cortez
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Joe Neguse
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Gregory W. Meeks
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Diana DeGette
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Al Green
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David Scott
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Earl Blumenauer
Member of Congress

Mikie Sherrill
Member of Congress

Jim Costa
Member of Congress

Handwritten signature of Robert J. Menendez in blue ink.

Robert J. Menendez
Member of Congress