

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 45 (Bauer-Kahan)
Version: April 9, 2025
Hearing Date: July 15, 2025
Fiscal: Yes
Urgency: No
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SUBJECT

Privacy: health data: location and research

DIGEST

This bill strengthens existing law protecting health and location data privacy with regard to those seeking reproductive health services.

EXECUTIVE SUMMARY

Since the 1973 holding in *Roe v. Wade*, the U.S. Supreme Court has continuously held that it is a constitutional right to access abortion before fetal viability. However, on June 24, 2022, the Court voted 6-3 to overturn the holding in *Roe* and found that there is no federal constitutional right to an abortion. As a result of the *Dobbs* decision, people in roughly half the country may lose access to abortion services or have them severely restricted. A growing number of states have been passing laws putting residents who seek essential gender-affirming care at risk of being prosecuted. States are attempting to classify the provision and seeking of gender-affirming health care as a crime warranting prison time and are threatening parents with criminal penalties if they attempt to travel to another state in order to secure life-saving gender-affirming care for their child.

California has enacted numerous laws to protect the right to gender-affirming care and the fundamental right to reproductive freedom, including laws prohibiting a person or business from collecting, using, disclosing, or retaining the personal information of a person who is physically located at, or within a precise geolocation of, a family planning center, except as specified. Concerns have been raised about new insidious tactics to target individuals exercising these rights. This bill responds by restricting the use of geofencing technology around specified health facilities and adding protections for research records related to those seeking specified health care services.

This bill is sponsored by the University of California and is supported by various organizations, including Planned Parenthood and Attorney General Rob Bonta. The Association of National Advertisers is opposed.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Provides that all people are by nature free and independent and have inalienable rights including, among others, the right to privacy. (Cal. Const., art. I, § 1.)
- 2) Prohibits the state from denying or interfering with an individual's reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion and their fundamental right to choose or refuse contraceptives. (Cal. Const., art. I, § 1.1.)
- 3) Holds that the state constitution's express right to privacy extends to an individual's decision about whether or not to have an abortion. (*People v. Belous* (1969) 71 Cal.2d 954.)
- 4) Provides that a person or business shall not collect, use, disclose, or retain the personal information of a person who is physically located at, or within a precise geolocation of, a family planning center, except only as necessary to perform the services or provide the goods requested by the person. A person or business shall not sell or share this personal information. (Civ. Code § 1798.99.90.)
- 5) Authorizes an aggrieved person or entity, including a family planning center, to institute and prosecute a civil action against any person or business who violates the above provision for injunctive and monetary relief and attorney's fees within three years of discovery of the violation. If the court finds for the petitioner, recovery shall be in the amount of three times the amount of actual damages and any other expenses, costs, or reasonable attorney's fees incurred in connection with the litigation. (Civ. Code § 1798.99.90.)
- 6) Establishes the Reproductive Privacy Act and provides that the Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions. (Health & Saf. Code § 123460 et. seq.)
- 7) Provides that the state may not deny or interfere with a person's right to choose or obtain an abortion prior to viability of the fetus or when the abortion is necessary to protect the life or health of the person. (Health & Saf. Code § 123466.)
- 8) Provides that a law of another state that authorizes a person to bring a civil action against a person or entity who does any of the following is contrary to the public policy of this state:
 - a) receives or seeks an abortion;
 - b) performs or induces an abortion;

- c) knowingly engages in conduct that aids or abets the performance or inducement of an abortion; or
 - d) attempts or intends to engage in the conduct described above. (Health & Saf. Code § 123467.5(a).)
- 9) Provides various safeguards against the enforcement of other states' laws that purport to penalize individuals from obtaining gender-affirming care that is legal in California. (Civ. Code § 56.109, Code Civ. Proc. §§ 2029.300, 2029.350, Fam. Code §§ 3421, 3424, 3427, 3428, 3453.5.)
- 10) Establishes the California Consumer Privacy Act (CCPA), as amended by Proposition 24 (2020), which grants consumers certain rights with regard to their personal information, including enhanced notice, access, and disclosure; the right to deletion; the right to restrict the sale of information; and protection from discrimination for exercising these rights. It places attendant obligations on businesses to respect those rights. (Civ. Code § 1798.100 et seq.)

This bill:

- 1) Prohibits a person from collecting, using, disclosing, selling, sharing, or retaining the personal information of a natural person who is physically located at, or within a precise geolocation of, a family planning center, except as specified.
- 2) Provides that it is permissible to collect or use the personal information of a natural person who is physically located at, or within a precise geolocation of, a family planning center, but only as necessary to perform the services or provide the goods requested by the natural person.
- 3) Establishes that an aggrieved person or entity, including a family planning center, may institute and prosecute a civil action against any person who violates this bill for injunctive and monetary relief and attorney's fees within three years of discovery of the violation.
- 4) Prohibits a person from geofencing an entity that provides in-person health care services in California for any of the following purposes:
 - a) To identify or track a person seeking, receiving, or providing health care services.
 - b) To collect personal information from a person seeking, receiving, or providing health care services.
 - c) To send notifications to a person related to their personal information or health care services.
 - d) To send advertisements to a person related to the person's personal information or health care services.

- 5) Defines “geofence” as any technology that enables spatial or location detection to establish a virtual boundary around, and detect an individual’s presence within, a “precise geolocation” as defined in subdivision (w) of Section 1798.140.
- 6) Prohibits the selling of personal information to, or sharing of personal information with, a third party for the use of such information to violate the above provision.
- 7) Establishes that any person that violates these geofencing provisions shall be subject to an injunction and liable for a civil penalty of \$25,000 for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General. The court may consider the good faith cooperation of the entity or person in determining the amount of the civil penalty.
- 8) Establishes that any civil penalty recovered and the proceeds of any settlement of any said action, shall be deposited in the California Reproductive Justice and Freedom Fund.
- 9) Permits any person that owns, operates, manages, or otherwise provides services to an in-person health care entity to geofence the entity’s own location to provide necessary health care services, including the use of location-based alarm devices to monitor newborns and memory-impaired individuals.
- 10) Permits any person that provides reproductive health care services to utilize geofencing for the purpose of providing security services to protect patients.
- 11) Prohibits research records, in a personally identifying form, developed or acquired by a person in the course of conducting research relating to anyone seeking or obtaining health care services, or relating to personal information, from being released in response to a subpoena or request if that subpoena or request is based on another state’s laws that interfere with a person’s rights under the Reproductive Privacy Act.
- 12) Prohibits research records, in a personally identifying form, developed or acquired by a person in the course of conducting research relating to anyone seeking or obtaining health care services, or relating to personal information, from being released to law enforcement for either of the following purposes, unless that release is pursuant to a subpoena not otherwise prohibited:
 - a) Enforcement of another state’s law that interferes with a person’s rights under the Reproductive Privacy Act (Article 2.5 (commencing with Section 123460) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code).

- b) Enforcement of a foreign penal civil action, as defined in Section 209.200 of the Code of Civil Procedure.
- 13) Defines the relevant terms.

COMMENTS

1. Post-Dobbs access to reproductive healthcare is being restricted across the nation

Roe v. Wade (1973) 410 U.S. 113, was the landmark U.S. Supreme Court decision that held the implied constitutional right to privacy extended to a person's decision whether to terminate a pregnancy, while allowing that some state regulation of abortion access could be permissible. *Roe* has been one of the most debated U.S. Supreme Court decisions and its application and validity have been challenged numerous times, but its fundamental holding had continuously been upheld by the Court until June 2022. On June 24, 2022, the Court published its official opinion in *Dobbs* and voted 6-3 to overturn the holding in *Roe*.¹ The case involved a Mississippi law enacted in 2018 that banned most abortions after the first 15 weeks of pregnancy, which is before what is generally accepted as the period of viability.² The majority opinion upholds the Mississippi law finding that, contrary to almost 50 years of precedent, there is no fundamental constitutional right to have an abortion. The opinion further provides that states should be allowed to decide how to regulate abortion and that a strong presumption of validity should be afforded to those state laws.³

Currently, most states have limitations on access to abortion with over one third enacting total, or near total, bans.

The *Roe* decision was the foundation for allowing people the ability to control their reproductive lives because it established a federal constitutional right for anyone who could become pregnant in the United States to decide when and if to have children and prevented the criminalization of having an abortion or providing an abortion.

2. Location information: protecting reproductive rights in California

Given the increasingly hostile landscape to accessing reproductive rights in this country and the criminalization of seeking attendant health care services in some states, California has responded with a swath of laws to protect these rights in California. This effort includes laws strengthening privacy protections for reproductive healthcare data, limiting cooperation with out-of-state investigations, and creating legal shields for

¹ *Dobbs v. Jackson Women's Health* (2022) 597 U.S. __ (142 S.Ct. 2228) at p. 5, available at https://www.supremecourt.gov/opinions/21pdf/19-1392_6j37.pdf.

² See Miss. Code Ann. §41-41-191.

³ *Id.* at 77.

patients and providers. However, the patchwork of state laws creates an evolving and complex legal landscape that continues to affect people across state lines.

The importance of privacy, especially with respect to location information, has never been more urgent. Precise geolocation information can expose intimate details of individuals' lives, revealing where they live, work, worship, seek medical care, and spend their personal time. This information can uncover sensitive details about political affiliations, religious beliefs, health conditions, and personal relationships. Unlike other forms of data, location information is continuously generated and can be tracked in real-time, creating comprehensive surveillance profiles.

Specifically for reproductive rights, location information falling into the wrong hands can subject an individual to legal liability and even criminal prosecution in other states. It is not a hypothetical that individuals can also have their locations tracked and be subject to harassment or targeted advertising based on their proximity to specific health care facilities. Short of that, simply the fear of surveillance can deter many from seeking basic reproductive healthcare.

Relevant here, SB 345 (Skinner, Ch. 260, Stats. 2023), among other things, sought to protect the health and privacy rights of those seeking reproductive health care services. That law prohibits a person or business from collecting, using, disclosing, or retaining the personal information of a person who is physically located at, or within a precise geolocation of, a family planning center, except only as necessary to perform the services or provide the goods requested by the person. A person or business cannot sell or share this personal information. The law provides an enforcement action for any violations.

3. Bolstering protections for reproductive freedom

Despite the existing protections, the collection, use, and sharing of sensitive location information regarding reproductive health care remains a problem:

Reproductive healthcare facilities are a frequent target for geofencing and geolocation tracking, which allows anyone to easily purchase records of women's locations and determine when they've been near a reproductive health center. Geofencing uses locational data to establish virtual "fences" around a designated geographic area, such as a store or an arena; when an individual enters or exits the geofence, an action is automatically triggered (such as an advertisement being loaded on a website). Geofencing is enabled by tracking geolocation data – precise information collected from an individual's location from GPS, WiFi, or cellular data. Though geofencing and geolocation tracking are interconnected, data brokers can use each method differently to surveil, commodify, and exploit women's locations.

Geofencing's preset boundaries allow data brokers to make dangerous assumptions about women based on their locations within a particular geofence, leading to invasive ads and digital harassment. For example, Andrea Campbell, Massachusetts Attorney General, said that the data broker Copley Advertising was contracted by Bethany Christian Services, an adoption agency, and RealOptions, a California-based network of crisis pregnancy centers in 2015 to "direct targeted advertisements – using geofencing – to 'abortion-minded women' sitting in waiting rooms at health clinics." Earlier this year, Sen. Wyden (D-OR) disclosed in a letter that Near Intelligence, a data broker, used "mobile phone location data to send targeted misinformation to people who visited any of 600 reproductive health clinics in 48 states."⁴

This bill responds by making it unlawful to geofence an entity that provides in-person health care services in California for any of the following purposes:

- To identify or track a person seeking, receiving, or providing health care services.
- To collect personal information from a person seeking, receiving, or providing health care services.
- To send notifications to a person related to their personal information or health care services.
- To send advertisements to a person related to the person's personal information or health care services.

The bill also makes it unlawful to sell personal information to, or share personal information with, a third party for the use of such information to violate this prohibition on geofencing.

To ensure comprehensive protection, the bill further makes it unlawful to use personal information obtained in violation of these provisions. Violations are subject to civil penalties and other relief in actions brought by the Attorney General.

The bill includes a number of exceptions, including compliance with a lawfully executed search warrant or a lawful subpoena issued pursuant to existing California law. The relevant health facilities and providers can continue to use geofencing technology for security and monitoring purposes.

⁴ Cecilia Marrinan, *Geofencing: The Overlooked Barrier to Reproductive Freedom* (October 30, 2024) Council on Foreign Relations, <https://www.cfr.org/blog/geofencing-overlooked-barrier-reproductive-freedom>.

4. Protecting research records

According to the University of California, the sponsor of the bill:

Many UC researchers conduct survey- and interview-based research on people about their reproductive health experiences, including research specifically evaluating the effects of new state laws enacted since the *Dobbs v. Jackson Supreme Court* decision. This data can include information about contraception, abortion care and other individual care information. For example, the UCSF Advancing New Standards in Reproductive Health research program conducted a longitudinal study, known as the Turnaway Study, which examines the effects of unwanted pregnancies on women's lives. Research assistants interviewed participants by phone over a period of 5 years, and nearly 8,000 interviews were conducted over the course of the project. The main finding of the Turnaway Study is that receiving an abortion does not harm the health and wellbeing of women, but in fact, being denied an abortion results in worse financial, health, and family outcomes. UCSF has published over 50 scientific papers in peer-reviewed journals using data from the Turnaway Study.

Generally, both state and federal laws protect against the disclosure of any medical information relating to seeking or obtaining an abortion that is collected in a clinical setting. However, when an individual discloses this information while participating in research, the same protections against disclosure do not exist. It is critically important that additional protections be in place to ensure that information shared by study participants in the context of a research study be fully protected from subpoena by out-of-state actors seeking to criminalize them for care they might have obtained that is legal in California. Without these protections, the risk to participant confidentiality might be too great, and it might not be possible to continue this kind of research.

In response to these concerns, this bill implements protections for research records, in a personally identifying form, developed or acquired by a person in the course of conducting research relating to anyone seeking or obtaining health care services, or relating to personal information. The bill prohibits the release of such records in response to a subpoena or request if that subpoena or request is based on either another state's laws that interfere with a person's rights under the Reproductive Privacy Act or a foreign penal civil action, as defined. In addition, the bill prohibits releasing these records to law enforcement for the enforcement of another state's law that interferes with a person's rights under the Reproductive Privacy Act or enforcement of a foreign penal civil action, except pursuant to a subpoena not otherwise prohibited.

The University of California explains:

AB 45 provides critical privacy protections for researchers, study participants, and patients such as those involved with the Turnaway Study. The research occurring across UC campuses is vital for improving public health, supporting informed decision-making, addressing health disparities and understanding the impact of the *Dobbs* decision. As a top-tier research institution and a leading health care provider, UC is committed to ensuring that this critical research continues. Protecting sensitive reproductive information in research records is not anticipated to have any fiscal impact on the state. These protections may make it more appealing for funders to support this type of research in California.

5. Stakeholder positions

Planned Parenthood Affiliates of California:

Existing law protects against the disclosure of medical information related to an abortion in a clinical setting. However, when an individual discloses this information while participating in research, the same protections against disclosure do not exist. Given the personal nature of this data and the current federal political atmosphere, worrying about privacy protections and risking confidentiality of one's personal information should not be a reason to cease research or participation in critical women's health studies.

Additionally, the same concerns extend to personal privacy through geofencing, which tracks and uses an individual's location data to trigger a response when in a specific place. Geolocation data has been used to target and spread misinformation about abortion, which can be harmful to patients. For example, in Massachusetts, anti-abortion groups targeted the area around reproductive health clinics with pop-up ads promoting "abortion alternatives."

AB 45 fills gaps in privacy protections for health research records and prohibits geofencing around health centers. These changes proactively address privacy concerns to protect personal health information from misuse or abuse.

The Association of National Advertisers writes in opposition:

On behalf of the advertising industry, we respectfully oppose AB 45, and we offer this letter to express our concerns about this legislation. We and the companies we represent, many of whom do substantial business in California, strongly believe consumers deserve meaningful privacy

protections supported by reasonable laws and industry policies. However, as drafted, AB 45 would have an overbroad effect by impeding legitimate advertising to Californians if they are merely near a family planning center. The bill also raises First Amendment concerns by blocking advertising to medical professionals and others inside of entities that provide in-person health care services. Moreover, the bill would permit a private right of action for certain violations, creating the possibility of extensive monetary penalties for well-meaning companies who inadvertently violate the bill's terms. We therefore urge the Senate Judiciary Committee ("Committee") to decline to advance the bill any further in the legislative process.

Writing in support, Attorney General Rob Bonta explains the need for the bill:

The *Dobbs v. Jackson Women's Health Organization* decision overturned *Roe v. Wade* in June 2022, and created a climate of uncertainty and fear among reproductive health care seekers and providers throughout the country. In this new climate, those seeking reproductive care need better protections against disclosures of personal information to ensure they are not targets of out-of-state law enforcement, misinformation, or scare tactics.

SUPPORT

University of California (sponsor)
American College of Obstetricians & Gynecologists - District IX
Attorney General Rob Bonta
California Civil Liberties Advocacy
California Hospital Association
California Medical Association
California Women's Law Center
Essential Access Health
Planned Parenthood Affiliates of California
Reproductive Freedom for All California

OPPOSITION

Association of National Advertisers

RELATED LEGISLATION

Pending Legislation:

SB 361 (Becker, 2025) fortifies the Data Broker Registry law by requiring additional disclosures from data brokers on the types of information collected. SB 361 is currently in the Assembly Appropriations Committee.

AB 322 (Ward, 2025) amends the CCPA to provide enhanced protections for consumers' precise geolocation information. It requires greater transparency around its collection and places guardrails on its collection and use. AB 322 prohibits businesses from selling precise geolocation information. AB 322 is currently in this Committee and is set to be heard the same day as this bill.

AB 1337 (Ward, 2025) amends the Information Practices Act (IPA) by expanding the definition of "personal information," extending its scope to cover local governmental entities, and bolstering protections regarding disclosures and accounting. AB 1337 is currently in this Committee and is being heard the same day as this bill.

Prior Legislation:

SB 345 (Skinner, Ch. 260, Stats. 2023) *See* Comment 2.

SCA 10 (Atkins and Rendon, Ch. 87, Stats. 2022) expressly provided that the state shall not deny or interfere with an individual's reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion and their fundamental right to choose or refuse contraceptives, and states the measure is intended to further the right to privacy and the right to not be denied equal protection, as guaranteed by the California Constitution and that it does not narrow or limit the right to privacy or equal protection.

AB 1242 (Bauer-Kahan, Ch. 627, Stats. 2022) prohibited law enforcement from knowingly arresting a person for performing or aiding in the performance of a lawful abortion or for obtaining an abortion and prohibits specified entities from providing information to another state or political subdivision thereof regarding an abortion that is lawful under California law, except as provided.

AB 1666 (Bauer-Kahan, Ch. 42, Stats. 2022) prohibited the enforcement in this state of out-of-state laws authorizing a civil action against a person or entity that receives or seeks, performs or induces, or aids or abets the performance of an abortion, or who attempts or intends to engage in those actions and declares those out-of-state laws to be contrary to the public policy of this state.

AB 2091 (Mia Bonta, Ch. 628, Stats. 2022), among other things, prohibited compelling a person to identify or provide information that would identify an individual who has sought or obtained an abortion in a state, county, city, or other local criminal, administrative, legislative, or other proceeding if the information is being requested based on another state's laws that interfere with a person's right to choose or obtain an abortion or a foreign penal civil action.

AB 2223 (Wicks, Ch. 629, Stats. 2022), among other things, authorized a party aggrieved by a violation of the Reproductive Privacy Act to bring a civil action against an offending state actor, as specified, and provides that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care.

PRIOR VOTES:

Assembly Floor (Ayes 63, Noes 11)

Assembly Appropriations Committee (Ayes 11, Noes 2)

Assembly Judiciary Committee (Ayes 9, Noes 2)

Assembly Privacy and Consumer Protection Committee (Ayes 10, Noes 2)
