

United States Senate

WASHINGTON, DC 20510

July 29, 2022

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

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

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
3801 Nebraska Avenue, NW
Washington, DC 20016

Dear Secretary Becerra, Attorney General Garland, and Secretary Mayorkas:

We write to urge you to include justice-involved people as you implement Executive Order (EO) 14076, “Protecting Access to Reproductive Healthcare Services.”¹ Justice-involved people—people incarcerated in prisons, jails, immigration detention, and juvenile facilities including unaccompanied minors in the custody of the Office of Refugee and Resettlement (ORR), as well as people under probation, parole, or other types of supervision—have unique challenges in accessing reproductive healthcare, including abortions.

Specifically, we ask that justice-involved people be included in the following areas:

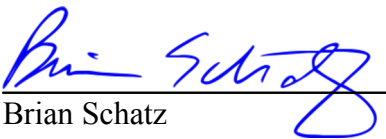
- (1) The report under section 3(a)(i)—directing HHS to submit to the president potential actions the department can take to protect and expand access to abortion care, including medication abortion—must include protected and expanded access in criminal legal settings, including by permitting and, where necessary, facilitating the transportation of justice-involved people, and by considering initial custodial placements when determining available access to reproductive healthcare;
- (2) The increased outreach and education about access to reproductive healthcare under section 3(a)(ii) must include education for justice-involved people, particularly people in jails and prisons, regardless of their gender identity or in which gendered facility they are housed;
- (3) The increased outreach and education under section 3(a)(ii) should also include information about potential ways to ensure that reproductive healthcare services for justice-involved people is affordable and accessible;
- (4) The increased outreach and education under section 3(a)(ii) should also include information translated in the primary language of individuals, and provide interpretation services as necessary;

¹ “Protecting Access to Reproductive Healthcare Services,” *Executive Order 14076*, 8 July 2022, <https://www.federalregister.gov/documents/2022/07/13/2022-15138/protecting-access-to-reproductive-healthcare-services>.

- (5) The convening of attorneys and public interest organizations under section 3(b) should also include public defenders, criminal defense lawyers, and immigration lawyers to encourage such lawyers to represent and assist justice-involved individuals seeking reproductive healthcare services;
- (6) The Departments of Justice and Homeland Security must take appropriate actions under section (4) to protect the privacy of individuals in their custody when those individuals choose to access reproductive healthcare, and to apply such actions consistently with the privacy and confidentiality protections required by federal law, such as under the *Violence Against Women Act* and the *Prison Rape Elimination Act* Standards;
- (7) The Departments of Justice and Homeland Security must take appropriate actions under section (4) to protect the safety and security of individuals in their custody when those individuals choose to access reproductive and related healthcare;
- (8) HHS should take similar appropriate actions under section (4) to protect the privacy, safety, and security of unaccompanied minors who are in the custody of HHS's Office of Refugee Resettlement; and
- (9) A representative from each federal custody agency—including the Federal Bureau of Prisons, U.S. Marshals Service, Immigration and Customs Enforcement, Customs and Border Protection, and the Department of Defense—should be a part of the Interagency Task Force on Reproductive Healthcare Access under section (5).

A full and proper consideration of justice-involved people is needed to be able to protect their access to reproductive healthcare information and services even if they are held in custody in states that have banned or severely restricted abortion. Thank you for your attention to our request.

Sincerely,



Brian Schatz
United States Senator



Mazie K. Hirono
United States Senator



Dianne Feinstein
United States Senator



Sherrod Brown
United States Senator



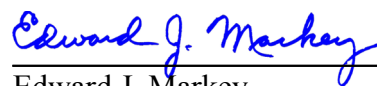
Benjamin L. Cardin
United States Senator



Elizabeth Warren
United States Senator



Cory A. Booker
United States Senator



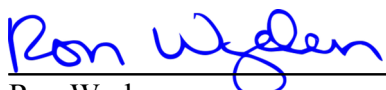
Edward J. Markey
United States Senator



Alex Padilla
United States Senator



Bernard Sanders
United States Senator



Ron Wyden
United States Senator



Tammy Duckworth
United States Senator