

## TRANSPORTING ABORTIFACIENTS ACROSS STATE LINES: PROSPECTS FOR INDICTMENT AND EXTRADITION\*

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On January 31, 2025, a Louisiana grand jury indicted a New York physician—Dr. Margaret Carpenter—for providing an abortifacient drug to a pregnant woman in Louisiana in violation of Louisiana state law.<sup>1</sup> On the basis of that indictment and an arrest warrant issued pursuant thereto, Louisiana Governor Jeff Landry, on February 11, 2025, demanded that New York Governor Kathy Hochul extradite Dr. Carpenter to Louisiana to stand trial.<sup>2</sup> On February 18, 2025, Governor Hochul denied Governor Landry’s demand for extradition.<sup>3</sup> In her letter denying extradition, Governor Hochul noted

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<sup>1</sup> Bill of Indictment, *State v. Carpenter*, No. 250187 (18th Jud. Dist. Ct. for the Par. of West Baton Rouge Jan. 31, 2025) (charging Dr. Margaret D. Carpenter and Nightingale Medical, P.C., with “knowingly caus[ing] an abortion to occur [“on or about April 5, 2024”] by means of delivering, dispensing, distributing, or providing a pregnant woman with an abortion-inducing drug,” in violation of Louisiana law, citing LA. REV. STAT. ANN. §§ 14:87.9(A), (B)(1) (2025) (criminal abortion by means of abortion-inducing drugs)). There does not appear to be any question that Dr. Carpenter’s alleged conduct in providing the drug (apparently by depositing the drug in the mail) occurred in New York, not Louisiana.

<sup>2</sup> La. Extradition Demand (Feb. 11, 2025), [gov.louisiana.gov/assets/2025-Extras/Extradition-warran-Doctor-Margaret-Carpenter.pdf](http://gov.louisiana.gov/assets/2025-Extras/Extradition-warran-Doctor-Margaret-Carpenter.pdf).

<sup>3</sup> Letter of Hon. Kathy Hochul, Governor of the State of New York, to Hon. Jeff Landry, Governor of the State of Louisiana (Feb. 18, 2025), [www.governor.ny.gov/sites/default/files/2025-02/Gov\\_Landry\\_Letter.pdf](http://www.governor.ny.gov/sites/default/files/2025-02/Gov_Landry_Letter.pdf).

that, on the known facts, Dr. Carpenter was never in Louisiana at the time the alleged offense occurred. Accordingly, she could not be considered a fugitive from justice whose extradition would have been required by law.<sup>4</sup> Because Dr. Carpenter was not a fugitive from justice, that is, someone who committed a crime in one state then fled to another state, whether she could be extradited was purely a matter of state law.<sup>5</sup> New York, however, prohibits the extradition of anyone whose conduct would not have constituted a crime in New York State,<sup>6</sup> and also prohibits the extradition of anyone who has been charged with an offense related to providing “reproductive health care” unless that conduct would also violate New York law.<sup>7</sup> Because Dr. Carpenter’s alleged conduct in providing an abortifacient drug to a pregnant woman would not constitute a violation of New York law, Governor Hochul denied Governor Landry’s extradition demand.<sup>8</sup>

The indictment of Dr. Carpenter is the first known indictment of an out-of-state actor for transporting abortifacients across state lines into a state where their use would be illegal since the Supreme Court, in *Dobbs v. Jackson Women’s Health Organization*,<sup>9</sup> overruled *Roe v. Wade*<sup>10</sup> and *Planned Parenthood v. Casey*,<sup>11</sup> and restored states’ authority to prohibit abortion. But it is not likely to be the last such indictment. Louisiana’s attempt to prosecute Dr. Carpenter raises serious questions regarding the reach of state criminal jurisdiction and whether an out-of-state actor may (or must) be extradited to answer for the results of his or her conduct. This Article concludes, first, that where a person’s conduct in one state has intended results in another state that are defined as criminal by that state, the latter state has jurisdiction over the offense and may prosecute the offender if it is able to secure his or her presence to stand trial; and, second, that extradition of the out-of-state actor, where the actor is not a fugitive from justice, is never required by law and, in many states, depending upon the circumstances, is actually prohibited.<sup>12</sup>

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<sup>4</sup> *Id.* As is explained later in this Article, there is no state or federal legal obligation to extradite anyone who is *not* a fugitive from justice.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* (citing N.Y. CRIM. PROC. LAW § 570.16).

<sup>7</sup> *Id.* (citing N.Y. CRIM. PROC. LAW § 570.17).

<sup>8</sup> *Id.*

<sup>9</sup> *Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215 (2022).

<sup>10</sup> *Roe v. Wade*, 410 U.S. 113 (1973).

<sup>11</sup> *Planned Parenthood of Se. Pa. v. Casey*, 505 U.S. 833 (1992).

<sup>12</sup> Whether the conduct alleged in the state court indictment also violated the federal Comstock Act, *see* 18 U.S.C. §§ 1461, 1462, is a separate question not addressed herein.

## I. STATE CRIMINAL JURISDICTION

The threshold question that must be answered in any attempt to prosecute an out-of-state actor (like Dr. Carpenter, in the conduct alleged by Louisiana) for sending abortifacients into a state where their intended use would be illegal is whether that state has jurisdiction over the crime alleged (performing or attempting to perform an illegal abortion, or aiding and abetting an illegal abortion). At common law, a state had criminal jurisdiction if *either* the conduct *or* the results of the criminal conduct occurred in that state.<sup>13</sup> The common law rule is part and parcel of the modern law of state criminal jurisdiction—usually statutory, but sometimes based only on case law—that is followed in most states.<sup>14</sup>

Under the objective territorial theory of jurisdiction, “Acts done outside a jurisdiction, but intended to produce and producing detrimental effects within it, justify a state in punishing the cause of the harm as if he had been present at the effect, if the state should succeed in getting him within its grasp.”<sup>15</sup>

If a crime covers only the conscious act of the wrongdoer, regardless of its consequences, the crime takes place and is punishable only where he acts; but, if a crime is defined so as to include some of the consequences of an act, as well as the act itself, the crime is generally regarded as having been committed where the consequences occur, regardless of where the act took place, and under a statute so providing a person who commits an act outside the state which affects persons or property within the state, and which, if

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<sup>13</sup> WAYNE R. LAFAYE, CRIMINAL LAW 281 (6th ed. 2017) (“The common law adopts as the principal basis of jurisdiction a territorial theory of jurisdiction over crimes: a state has power to make conduct or the result of conduct a crime if the conduct takes place or the result happens within its territorial limits.”).

<sup>14</sup> Appendix A lists the statutes and applicable case law regarding state criminal jurisdiction for the twenty-five states that have laws on the books that prohibit abortion throughout pregnancy or at any specified stage of gestation or development before twenty weeks. Long before twenty weeks, the use of an abortifacient drug like mifepristone or misoprostol to terminate a pregnancy would be medically contraindicated.

<sup>15</sup> *Strassheim v. Daily*, 221 U.S. 280, 285 (1911). *See also* *Hyde v. United States*, 225 U.S. 347, 362-63 (1912) (“This court has recognized . . . that there may be a constructive presence in a state, distinct from a personal presence, by which a crime may be consummated. And if it may be consummated it may be punished by an exercise of jurisdiction; that is, a person committing it may be brought to trial and condemnation.”). *In re Vazquez*, 705 N.E.2d 606, 610-11 nn. 4-5 (Mass. 1999) (discussing doctrine and citing authorities).

committed within the state, would be a crime, is punishable as if the act were committed within the state.<sup>16</sup>

When an out-of-state actor provides an abortifacient to a person in a state where abortion is illegal, with the intention that it be used therein, the result (or attempted result) gives that state jurisdiction over the offense. And that is entirely consistent with modern statutes on territorial jurisdiction,<sup>17</sup> as well as the Model Penal Code.<sup>18</sup>

This precise issue was addressed in *State v. Morrow*.<sup>19</sup> *Morrow* was a prosecution for abortion (resulting in the pregnant woman's death) based on the defendant's conduct in mailing abortifacients from Washington, D.C., to his paramour, a resident of Columbia, South Carolina. The South Carolina Supreme Court held that, even assuming the defendant had never set foot in the state, South Carolina had jurisdiction over his offense. "If the defendant procured the pills in Washington, and transmitted them by mail to the [victim], with the advice for them to be taken for the purpose of bringing about an abortion, and she received and took them in this state, in contemplation of law, it was the same thing as if the defendant in person had brought the pills to Columbia [South Carolina] and there delivered them to [her]."<sup>20</sup>

In sum, the conduct of a person in one state that is intended to have a result in another state that is defined as criminal by that state is sufficient for the latter state to assert criminal jurisdiction. Accordingly, Louisiana had jurisdiction over Dr. Carpenter's alleged conduct in New York when she sent an abortifacient drug into Louisiana for its use there in violation of Louisiana's abortion laws.

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<sup>16</sup> 22 CORPUS JURIS SECUNDUM, Criminal Law § 134. *See also* Annotation, *Absence from state at time of offense as affecting jurisdiction of offense*, 42 A.L.R. 272, 277 (1926) (in those jurisdictions that, by statute, have abolished the distinction between principals in felony and accessories before the fact, which most or all states have, "absentees who commit within the state, either by guilty or innocent agents, a crime therein, are . . . liable to indictment, trial, and conviction within that jurisdiction").

<sup>17</sup> LAFAVE, *supra* note 13, 287-92.

<sup>18</sup> MODEL PENAL CODE §§ 1.03(a), (b) ("Except as otherwise provided in this Section, a person may be convicted under the law of this State of an offense committed by his own conduct or the conduct of another for which he is legally accountable if: (a) either the conduct which is an element of the offense or the result which is such an element occurs within this State; or (b) conduct occurring outside the State is sufficient under the law of this State to constitute an attempt to commit an offense within the State . . .").

<sup>19</sup> *State v. Morrow*, 18 S.E. 853 (S.C. 1893).

<sup>20</sup> *Id.* at 859.

## II. EXTRADITION

Article IV, § 2, cl. 2, of the United States Constitution provides:

A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.<sup>21</sup>

Article IV, § 2, cl. 2, is not self-executing but requires implementing legislation.<sup>22</sup> That legislation may be found in the Interstate Extradition Act, which provides:

Whenever the executive authority of any State or Territory demands any person as a fugitive from justice, of the executive authority of any State, District, or Territory to which such person has fled, and produces a copy of an indictment found or an affidavit made before a magistrate of any State or Territory, charging the person demanded with having committed treason, felony, or other crime, certified as authentic by the governor or chief magistrate of the State or Territory from whence the person so charged has fled, the executive authority of the State, District, or Territory to which such person has fled shall cause him to be arrested and secured, and notify the executive authority making such demand, or the agent of such authority appointed to receive the fugitive, and shall cause the fugitive to be delivered to such agent when he shall appear. If no such agent appears within thirty days from the time of the arrest, the prisoner may be discharged.<sup>23</sup>

The constitutional and statutory obligation of the governor of an asylum state (the state in which a criminal suspect is found) to extradite a criminal suspect to the demanding state (the state seeking the suspect's extradition) upon the application of the governor of that state, applies *only* to someone who is a fugitive from justice, that is, someone who committed a crime while *physically present* in the demanding state, then fled from that state.<sup>24</sup> As the

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<sup>21</sup> U.S. CONST. art. IV, § 2, cl. 2.

<sup>22</sup> *California v. Super. Ct. of Cal.*, 482 U.S. 400, 406 (1978).

<sup>23</sup> Fugitives from State or Territory to State, District, or Territory, 18 U.S.C. § 3182. The Supreme Court has repeatedly emphasized that where the minimal requirements for extradition have been satisfied, extradition is mandatory and the extradition process itself is intended to be summary. *See, e.g., Cal. v. Super. Ct. of Cal.*, 482 U.S. 400, 405-08 (1978) (citing *Michigan v. Doran*, 439 U.S. 282, 287-89 (1978)). Moreover, a federal court has authority to *compel* extradition. *See Puerto Rico v. Branstad*, 483 U.S. 219, 227-30 (1987), overruling, in part, *Kentucky v. Dennison*, 65 U.S. 66 (1861).

<sup>24</sup> *See Munsey v. Clough*, 196 U.S. 364, 374-75 (1905) (citing *Hyatt v. People ex rel. Corkran*, 188 U.S. 691, 718-19 (1903); *see also South Carolina v. Bailey*, 289 U.S. 412, 420-21 (1933))

Supreme Court has repeatedly held, a person is *not* a fugitive from justice if, while in another state, he engages in conduct causing criminal results in the demanding state. *Actual* presence in the demanding state at the time the crime was alleged to have been committed is required—*constructive* presence will not suffice.<sup>25</sup> A wealth of state court decisions supports the proposition that “A person cannot be said to have fled from a state in which he is charged with the commission of a crime when he was not within that state at the time the crime is alleged to have been committed.”<sup>26</sup> In short, the legal obligation under federal law to extradite a fugitive from justice is not coextensive with a state’s criminal jurisdiction. While the latter may reach constructive presence in another state, the former does not.<sup>27</sup> Thus, given what appears to be the undisputed facts of her case, Dr. Carpenter was not a “fugitive from justice” from Louisiana and, therefore, Governor Hochul was under no legal

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(following *Munsey*).

<sup>25</sup> *Bailey*, 289 U.S. at 420-21; *Munsey*, 196 U.S. at 374-75, *Hyatt*, 188 U.S. at 718-19.

<sup>26</sup> *Ex parte* Heath, 287 P. 636, 637 (Mont. 1930). See *Ex parte* King, 28 A.2d 562, 564-64 (Me. 1942) (“while it is unnecessary to establish in the asylum state the commission of the crime charged, it is necessary to prove the flight, for without it, under the Constitution, the federal laws, and under our own statute, there can be no extradition of one as a fugitive”) (citing *Heath*); *People ex rel. Corkran v. Hyatt*, 64 N.E. 825, 826 (N.Y. 1902) (“to be a fugitive from justice a person must have been *corporeally present* in the demanding state at the time of the commission of the alleged crime”) (emphasis added), *aff’d*. 188 U.S. 691 (1903); *State ex rel. Blake v. Doeppe*, 124 S.E., 667, 668 (W.Va. 1924) (“[i]t is essential that [the subject of the extradition demand] shall have incurred guilt while *bodily present* in the demanding state before he left its jurisdiction”) (emphasis added); *People ex rel. Goldstein v. Babb*, 123 N.E.2d 639, 641 (Ill. 1954) (“The kind of presence required to constitute one a fugitive from justice, however, is a *physical presence*. Constructive presence is not sufficient.”) (emphasis added). There are innumerable state court decisions holding that the obligation under federal law to extradite a fugitive from justice cannot be based on the suspect’s *constructive* presence in the demanding state. See, e.g., *In re* Mohr, 73 Ala. 503, 512 (1883); *In re* Brewer, 143 P.2d 33, 36 (Cal. Ct. App. 1943); *Eathorne v. Nelson*, 505 P.2d 1, 4 (Colo. 1973); *Ennist v. Baden*, 28 So.2d 160, 161-62 (Fla. 1946); *Johnson v. Burke*, 148 N.E.2d 413, 421-22 (Ind. 1958); *Seely v. Beardsley*, 190 N.W. 498, 500 (Iowa 1922); *In re* Germain, 155 N.E. 12, 15 (Mass. 1927); *State ex rel. Wagner v. Hedman*, 195 N.W.2d 420, 422 (Minn. 1972); *Keeton v. Gaiser*, 55 S.W.2d 302, 305 (Mo. 1932); *Koenig v. Poskochil*, 469 N.W.2d 523, 525-26 (Neb. 1991); *In re* Basto, 531 A.2d 355, 359 (N.J. 1987); *Bazaldua v. Hanrahan*, 592 P.2d 512, 513-15 (N.M. 1979); *Keller v. Butler*, 158 N.E. 510, 511 (N.Y. 1927); *State v. Hall*, 20 S.E. 729 (N.C. 1894) *In re* Rowe, 423 N.E.2d 167, 172 (Ohio 1981); *State ex rel. Whittle v. Evatt*, 1991 Tenn. Crim. App. LEXIS 859 at 3; *Ex parte* Beeth, 154 S.W.2d 484, 485 (Tex. Crim. App. 1941); *In re* Ropp, 541 A.2d 86, 88-89 (Vt. 1988).

<sup>27</sup> *People ex rel. Merklen v. Enright*, 217 N.Y.S. 288, 291 (App. Div. 1926): “It is established in the law of rendition that while a person may be punished for acts committed without the State producing detrimental effects within it, the power to extradite, as distinguished from the power to prosecute and punish, rests wholly upon subdivision 2 of section 2 of article 4 of the United States Constitution. It is held not to exist where the demanding State bases jurisdiction upon constructive rather than actual presence within its border at the time of the commission of the alleged offense.”

obligation to honor Governor Landry's demand that she extradite Dr. Carpenter from New York to Louisiana to answer the charges brought against her.

The Uniform Criminal Extradition Act (UCEA) has been enacted in every state except Mississippi, North Dakota, and South Carolina.<sup>28</sup> Section 6 of the Act provides:

The Governor of this state may also surrender, on demand of the Executive Authority of any other state, any person in this state charged in such other state in the manner provided in Section 3 with committing an act in this state, or in a third state, intentionally resulting in a crime in the state whose Executive Authority is making the demand, and the provisions of this act not otherwise inconsistent, shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom.<sup>29</sup>

Under § 6, the governor of one state *may*, at the demand (or, more accurately worded, *request*) of the governor of another state, extradite a person who has been charged with a criminal offense in the demanding state, even though the defendant was not in that state at the time the crime was committed and is not a fugitive from justice (and, therefore, is not subject to mandatory extradition under federal law).<sup>30</sup> As many state courts have recognized, extradition under § 6 of the UCEA is discretionary, not mandatory.<sup>31</sup> Consequently, the

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<sup>28</sup> The statutes enacting the UCEA may be found in Appendix B.

<sup>29</sup> UNIF. CRIM. EXTRADITION ACT § 6, 11 U.L.A. 470 (2003). The UCEA was drafted by the Commissioners on Uniform State Laws in 1926 to simplify and standardize state laws governing the extradition of criminal suspects.

<sup>30</sup> See *Richard v. Matthews*, 207 F.2d 227, 229-30 (D.C. Cir. 1953), for a comparison of the *mandatory* nature of extradition under 18 U.S.C. § 3182) where the criminal suspect was *actually* present in the demanding state at the time of the offense, and the *discretionary* nature of extradition under § 6 of the UCEA where the suspect was only *constructively* present in the demanding state at the time of the offense (by causing criminal results in that state and/or by acting through third parties).

<sup>31</sup> See, e.g., *Woodall v. State*, 730 So.2d 627, 636 (Ala. Crim. App. 1997), *aff'd in part, rev'd in part on other grounds*, 730 So.2d 652 (Ala. 1998); *Moser v. Zaborac*, 514 P.2d 12, 14 (Alaska 1973); *Fullerton v. McCord*, 2 S.W.3d 775, 777-79 (Ark. 1999); *Morris v. Nelson*, 659 P.2d 1386, 1387-88 (Colo. 1983); *Conrad v. McClearn*, 445 P.2d 222, 223 (Colo. 1968); *Clark v. Comm'r of Corrections*, 917 A.2d 1, 4 (Conn. 2007); *Kennon v. State*, 809 P.2d 546, 550 (Kan. 1991); *State ex rel. Clark v. Pierce*, 317 N.W.2d 709, 710 (Minn. 1982); *Koenig v. Poskochil*, 469 N.W.2d at 526; *In re Basto*, 531 A.2d at 359; *People ex rel. Swanson v. Fitzsimmons*, 153 N.Y.S.2d 772, 776 (App. Div. 1956); *Commonwealth ex rel. Crist v. Price*, 175 A.2d 852, 854 (Pa. 1961); *Ex parte Kaufman*, 39 N.W.2d 905, 907 (S.D. 1949); *Ex parte Harrison*, 568 S.W.2d 339, 343 (Tex. Crim. App. 1978); 719 S.W.2d 678, 679-80 (Tex. App., 1986, *no writ*); *In re Ropp*, 541 A.2d at 88. See also *State v. McCurley*, 627 So.2d 339, 343-44 (Miss. 1993) (under comparable statute).

governor of a state who, for public policy or other reasons, refuses an extradition demand (or request) made pursuant to § 6 cannot be compelled by a writ of mandamus to comply with that demand.<sup>32</sup>

Immediately after the Supreme Court, in *Dobbs v. Jackson Women’s Health Organization*, overruled *Roe v. Wade* and *Planned Parenthood v. Casey*, California Governor Gavin Newsom issued an executive order providing that, notwithstanding his authority under § 1549.1 of the California Penal Code,<sup>33</sup>

[M]y office shall decline any request received from the executive authority of any other state to issue a warrant for the arrest or surrender of any person charged with a criminal violation of a law of that other state where the violation alleged involves the provision, receipt, or assistance with reproductive health care services, unless required by the U[nited] S[tates] Constitution or the acts forming the basis of the prosecution of the crime charged would also constitute a criminal offense under the laws of California.<sup>34</sup>

In other words, Governor Newsom would refuse to extradite anyone charged with violating the abortion law of another state unless that person was a fugitive from justice (in which case the Governor would be *required* to extradite him) or the offense with which the person was charged also constituted an offense under California law (in which case the Governor would have the *discretion* to extradite him).

Governor Hochul was not *required* to extradite Dr. Carpenter to Louisiana. But did she have the *discretion* to do so? The answer is almost certainly “No.” Many states have narrowed the circumstances under which the governor may exercise his or her authority to grant an extradition demand (request) made pursuant to § 6. Five states—including New York—in enacting the

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<sup>32</sup> See, e.g., *In re Ropp*, 541 A.2d at 90 (“how or why [the Governor] exercises her discretion in a particular case is beyond the concern of the judicial branch”).

<sup>33</sup> CAL. PENAL CODE § 1549.1 (based on § 6 of the Uniform Criminal Extradition Act) (“The Governor of this state may also surrender, on demand of the executive authority of any other state, any person in this state charged in the other state in the manner provided in Section 1548.2 with committing an act in this state, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand. The provisions of this chapter, not otherwise inconsistent, shall apply to those cases, even though the accused was not in the demanding state at the time of the commission of the crime, and has not fled therefrom. Neither the demand, the oath, nor any proceedings under this chapter pursuant to this section need state or show that the accused has fled from justice from, or at the time of the commission of the crime was in, the demanding or other state.”).

<sup>34</sup> Cal. Executive Order N-12-22 (June 27, 2022), [www.gov.ca.gov/wp-content/uploads/2022/06/6.27.22-EO-N-12-22-Reproductive-Freedom.pdf](http://www.gov.ca.gov/wp-content/uploads/2022/06/6.27.22-EO-N-12-22-Reproductive-Freedom.pdf).

UCEA, have amended § 6 to forbid the extradition of a person (other than a fugitive from justice) who has been charged in the demanding state with an offense that would not violate the law of the asylum state.<sup>35</sup> None of those five states prohibits abortion until late in pregnancy.<sup>36</sup> As a result, the governors of these states—including Governor Hochul—would have no authority to extradite someone for performing (or attempting to perform) or aiding or abetting a pre-viability abortion that was criminal under the laws of another state. Moreover, at least thirteen states (including Massachusetts and New York) have enacted so-called “shield laws” that prohibit the extradition to another state of a person (other than a fugitive from justice) who has provided “reproductive health care” that violates the law of another state.<sup>37</sup> New York’s law would bar Governor Hochul from extraditing Dr. Carpenter for the conduct alleged in the Louisiana indictment. Combined, almost a third of the states would bar the extradition of anyone (other than a fugitive from justice) charged with violating the abortion laws of another state. In the remaining two-thirds of the states, the decision whether to extradite a person charged with such an offense would lie in the unreviewable discretion of the governor.

### III. CONCLUSION

Based on the foregoing analysis there does not appear to be any question that sending an abortifacient drug across state lines into a state where its

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<sup>35</sup> CONN. GEN. STAT. § 54-162; DEL. CODE ANN. tit. 11, § 2506; MASS. GEN. LAWS ANN. ch. 276, § 13; N.Y. CRIM. PROC. LAW § 570.16; R.I. GEN. LAWS § 12-9-8. A pair of cases—one decided in a State that enacted § 6 without restricting the governor’s authority, the other decided in a State that enacted § 6 with the restriction described in the text—illustrates the difference in application. *Compare* *Newman v. Elrod*, 391 N.E.2d 37, 40-41 (Ill. App. Ct. 1979) (discretionary extradition allowed whether or not conduct for which extradition was sought was a crime in Illinois), *with* *People v. Hinton*, 353 N.E.2d 617, 620 (N.Y. 1976) (*contra* with respect to the law of New York State).

<sup>36</sup> Connecticut and Rhode Island prohibit abortion after viability except to preserve the life or health of the pregnant woman. *See* CONN. GEN. STAT. § 19a-602(b); R.I. GEN. LAWS § 23-4.13-2(d). Delaware prohibits abortion after viability except to protect the life or health of the pregnant woman or in cases of fatal fetal anomaly. *See* DEL. CODE ANN. tit. 24, § 1790(b). Massachusetts and New York prohibit abortion after twenty-four weeks except to protect the life or health of the pregnant woman (and in certain other circumstances). *See* MASS. GEN. LAWS ANN. ch. 112, § 12N; N.Y. PUB. HEALTH LAW § 2599-BB.

<sup>37</sup> COLO. REV. STAT. § 16-19-107; HAW. REV. STAT. § 323J-6; 725 ILCS 225/6; ME. REV. STAT. tit. 15, § 203.5; MD. CODE ANN., CRIM. PROC. § 9-106; MASS. GEN. LAWS ANN. ch. 276, § 13; MINN. STAT. ANN. § 629.06; NEV. REV. STAT. § 179.540; N.J. STAT. ANN. § 2A:160-14.1; N.M. STAT. ANN. § 31-4-6; N.Y. CRIM. PROC. LAW § 570.17; VT. STAT. ANN. tit. 13, § 4970; WASH. REV. CODE § 10.88.250(2).

intended use would be illegal constitutes an offense that falls within the criminal jurisdiction of that state. Accordingly, a person who engages in such conduct—as Dr. Carpenter is alleged to have done—may be charged and tried in the state where the drug was sent, even if she was never physically present in that state. But, in the latter case, the out-of-state actor cannot be regarded as a fugitive from justice. Accordingly, the governor of the state where the actor is found (Governor Hochul in the case involving Dr. Carpenter) would have no legal obligation to extradite her to the State seeking her extradition. In almost a third of the states—including New York—the out-of-state actor’s extradition would be prohibited by state law; in the other two-thirds of the states her extradition would be left up to the discretion of the Governor, whose decision to deny extradition would not be subject to judicial review. This suggests that bringing to justice persons like Dr. Carpenter who are alleged to have arranged for the shipment of abortifacient drugs from a state where their use would be legal into a state where their intended use would be illegal, may prove challenging.

APPENDIX A:  
CRIMINAL JURISDICTION OVER OUT-OF-STATE CONDUCT THAT HAS  
IN-STATE CRIMINAL RESULTS<sup>38</sup>

*Alabama*

ALA. CODE § 15-2-4

*Ex parte* Baldwin, 456 So.2d 129, 133–34 (Ala. 1984) (finding Alabama had jurisdiction over offense of robbery with aggravating factor of intending to kill the victim where victim was robbed and kidnaped in North Carolina and murdered in Alabama)

*Arizona*<sup>39</sup>

ARIZ. REV. STAT. ANN. § 13-108

*State v. Flores*, 188 P.3d 706, 713 (Ariz. Ct. App. 2008) (holding that Section 13-108 expressed the legislature’s intent “to exercise jurisdiction over a crime, wherever committed, when the ‘effect’ or ‘result’ of such crime occurs in Arizona”)

*Arkansas*

ARK. CODE ANN. § 5-1-104(a)

*Powell v. State*, 246 S.W.3d 891, 892–94 (Ark. Ct. App. 2007) (“the State can show that the conduct or result that is an element of the offense occurred within Arkansas” when the defendant in Georgia by telephone and e-mail “actively deceived [the Arkansas victim] into sending him money”)

*Mortensen v. State*, 217 S.W.2d 325, 328–29 (Ark. 1949) (quoting 22 CORPUS JURIS SECUNDUM, Criminal Law § 134, and holding that defendant was properly found guilty of obtaining money through false pretenses by issuing

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<sup>38</sup> For purposes of this Article, this list is limited to states with statutes that prohibit abortion throughout pregnancy or at any specified stage of gestation or development before twenty weeks.

<sup>39</sup> As a result of an amendment to the Arizona Constitution approved on November 5, 2024, Arizona’s law prohibiting abortions after fifteen weeks gestation, *see* ARIZ. REV. STAT. ANN. § 36-2322, is no longer enforceable. *See* ARIZ. CONST., art. 2, § 8.1 (the “Right to Abortion Initiative”).

bad checks in Illinois that he arranged to have cashed by an accomplice in Arkansas)

### *Florida*

FLA. STAT. § 910.005

*Simmons v. State*, 944 So. 2d 317 (Fla. 2006) (recognizing that “a telephone call constitutes conduct in the jurisdiction in which the call is received”) (citation and internal quotation marks omitted) (rejecting challenge to “luring” statute)

*State v. Ruiz*, 909 So. 2d 986 (Fla. Dist. Ct. App. 2005) (holding that the state properly exerted subject matter jurisdiction over conduct of out-of-state defendant who sent pornographic materials to a person he believed to be a minor residing in Florida)

*Black v. State*, 819 So. 2d 208, 211-12 (Fla. Dist. Ct. App. 2002) (holding that the defendant was properly convicted of felony securities fraud based on the defendant's telephone calls and faxes into Florida from another jurisdiction)

### *Georgia*

GA. CODE ANN. § 17-2-1

*Brown v. State*, 743 S.E.2d 474, 478 (Ga. Ct. App. 2013) (“a defendant utilizes computer on-line services in the county of the *recipient* of the computer messages, even when the defendant sent the messages from elsewhere”) (emphasis in the original) (holding that the defendant was properly convicted of computer child exploitation when, while in Tennessee, he sent sexually explicit e-mails to a person in Georgia he believed to be an underage minor)

### *Idaho*

IDAHO CODE ANN. § 19-302, *see also* §§ 18-202(1), (3)

*State v. Doyle*, 828 P.2d 1316, 1318–19 (Idaho 1992) (finding that the defendant was properly found guilty of felony child custody interference when, while living in Oregon, he refused to return minor child to the child's mother's custody in Idaho per court ordered visitation)

*Indiana*

IND. CODE § 35-41-1-1(b)

An-Hung Yao v. State, 975 N.E.2d 1273, 1276–78 (Ind. 2012) (finding that the defendant was properly charged with theft and counterfeiting when, while in Texas, he shipped replica firearms to Indiana)

Ortiz v. State, 766 N.E.2d 370, 374 (Ind. 2002) (“A person may be convicted of a crime in Indiana if either the conduct or the result that is an element of the offense occurred in Indiana.”)

*Iowa*

IOWA CODE § 803.1

State v. Rimmer, 877 N.W.2d 652, 668 (Iowa 2016) (“this statute [§ 803.1] allows territorial jurisdiction if either ‘conduct’ or a ‘result’ constituting an element of the crime occurs within Iowa”), *id.* at 672 (holding that the defendants were properly charged with insurance fraud, and holding that “defendants’ phone calls to a nonresident victim’s employee in Iowa that deceived him into authorizing payment of a false claim constitute conduct or a result that occurs in Iowa even if the victim’s payment is sent from another state”)

State v. Husted, 538 N.W.2d 867, 869, 871 (Iowa Ct. App. 1995) (holding that the defendant, a resident of Missouri, was properly convicted of aiding and abetting thefts committed in Iowa where, through telephone calls, he encouraged two residents of Iowa to burglarize businesses in Iowa and deliver the stolen property to him in Missouri)

Alkhalidi v. State, 753 N.E.2d 625, 628 (Ind. 2001) (holding that the defendant properly convicted of murder, robbery and theft where “[t]here was sufficient evidence for the jury to conclude that either the conduct—the robbery and/or shooting—*or the result*—the taking of property and/or death—occurred in Indiana”) (emphasis added)

*Kentucky*

KY. REV. STAT ANN. § 500.060

Chumbler v. Commonwealth, 905 S.W.2d 488, 498 (Ky. 1995) (holding that the defendant “may be convicted under Kentucky law of an offense

committed by her own conduct or the conduct of another for which she is legally accountable when either the conduct *or the result which is an element of the offense* occurs within the state”) (emphasis added) (defendant’s conduct outside of Kentucky could be considered in her prosecution for murder where the victim’s death occurred in Kentucky)

*Louisiana*

LA. CODE CRIM. PROC. ANN. art. 611(A)

State v. Overby, 714 So.2d 28, 31 (La. Ct. App. 1998) (finding that criminal jurisdiction exists if “act or element” of offense occurs in Louisiana);

State v. Simpkins, 12 So.3d 1021, 1029 (La. Ct. App. 2009) (same)

*Mississippi*

MISS. CODE ANN. § 99-11-15

Boches v. State, 505 So.2d 254, 261 (Miss. 1987) (stating general rule)

*Missouri*<sup>40</sup>

MO. REV. STAT. § 541.191.1

Pennell v. State, 467 S.W.3d 367 (Mo. Ct. App. 2015) (in affirming the denial of defendant’s petition for post-conviction relief, court of appeals held that defendant’s counsel was not ineffective for not challenging Missouri’s jurisdiction over offense of delivery of controlled substances where defendant, a resident of Kansas, mailed a box containing methamphetamine and marijuana via UPS to a person in Missouri), *overruled in part on other grounds*, Latham v. State, 554 S.W.3d 397, 404 n. 1 (Mo. 2018)

State v. Starkey, 380 S.W.3d 636, 646 (Mo. Ct. App. 2012) (finding that the defendant was properly convicted of four counts of aggravated stalking when “the phone calls, faxes, and letters, constituting the alleged course of conduct and credible threat, occurred in Texas,” but were “directed at Missouri residents”)

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<sup>40</sup> As a result of an amendment to the Missouri Constitution approved on November 5, 2024, Missouri’s “Right to Life of the Unborn Child Act,” Mo. Rev. Stat. § 188.017, is no longer enforceable. See MO. CONST., art. I, § 36.1 (“the Right to Reproductive Freedom Initiative”).

Cummins v. State, 912 S.W.2d 523, 524 (Mo. Ct. App. 1995) (finding that the defendant was properly convicted of delivery of a controlled substance, “[e]ven if delivery had occurred in Kansas,” because “the result of the delivery (transfer of the money and transportation of the marijuana to Missouri) occurred in Missouri”)

### *Nebraska*

no applicable statute, only case law

State v. Godek, 981 N.W.2d 810, 819 (Neb. 2022) (“when some requisite elements of a crime are committed outside Nebraska, but an essential element of the crime is committed or occurs in Nebraska, a Nebraska court has subject matter jurisdiction for prosecution of a defendant charged with the crime. It follows that any element of an offense can confer territorial jurisdiction.”) (holding that the defendant was properly convicted of making “terroristic threats” based upon telephone calls he placed from Council Bluffs, Iowa, to persons in Bellevue, Sarpy County, Nebraska)

### *North Carolina*

no applicable statute

State v. Darroch, 287 S.E.2d 856, 864 (N.C. 1982) (“the commission of the principal felony [murder] within this state's territorial boundaries at the behest of the defendant is sufficient to support this state's jurisdiction over her acts”) (finding that the defendant, a Virginia resident, while in Virginia, hired two persons to murder her estranged husband, a resident of North Carolina, who was murdered in North Carolina by the persons so hired)

State v. Drakeford, 409 S.E.2d 319, 321 (N.C. Ct. App. 1991) (holding that the defendant, a resident of Maryland, was properly convicted of conspiracy to traffic in cocaine when, in a telephone call with a resident of North Carolina, he agreed to sell him 400 grams of cocaine and later delivered the cocaine to him in New York)

### *North Dakota*

N.D. CENT. CODE §§ 29-03-01, 29-03-01.1(2)

State v. Backland, 672 N.W.2d 431, 436 (N.D. 2003) (finding that the defendant was properly convicted of “luring a minor by computer” when, while

in Minnesota, he communicated with a person in North Dakota whom he thought was a minor and later arranged to meet her)

*Ohio*<sup>41</sup>

OHIO REV. CODE ANN. § 2901.11(A)

*State v. Campa*, 2002 Ohio App. LEXIS 1445, at 5–6 (“In a drug-trafficking case, an offer to sell drugs over the phone to a person in Ohio is sufficient to establish jurisdiction, even if the one offering to sell the drugs is outside the state.”) (holding that the defendant was properly convicted of drug trafficking when, while outside the State of Ohio, he offered, in a telephone conversation with a Cincinnati undercover officer, to sell him more than 20,000 grams of marijuana)

*State v. Brown*, 1991 Ohio App. LEXIS 2010, at 12 (holding that the defendant, a resident of Florida, was properly convicted of drug trafficking and attempted aggravated drug trafficking in Ohio when, in telephone conversations with persons in Ohio, he “negotiated and offered to sell [them] cocaine . . . , thus placing an element of the crime within the state’s jurisdiction”)

*State v. Blood*, 1999 Ohio App. LEXIS 4318 (finding that the defendant was properly convicted of “jacklighting” when, while traveling in a vehicle on the Pennsylvania side of a state highway that was on the border between Pennsylvania and Ohio, he cast a bright spotlight into Ohio searching for deer in violation of Ohio law)

*State v. Dominguez*, 1999 Ohio App. LEXIS 184, at 9 (“an offer to sell drugs over the telephone to a person in Ohio [is] sufficient to establish jurisdiction . . . even though the person offering to sell the drugs was out of the state”) (finding that the defendant was properly found guilty of aggravated trafficking in cocaine)

*Oklahoma*

OKLA. STAT. tit. 22, § 121

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<sup>41</sup> As a result of an amendment to the Ohio Constitution approved on November 7, 2023, Ohio’s prohibition of abortion after the unborn child has a detectable heartbeat, OHIO REV. CODE ANN. § 2919.195, is no longer enforceable. *See* OHIO CONST. art. I, § 23 (“The Right to Reproductive Freedom with Protections for Health and Safety”).

*Nolte v. State*, 892 P.2d 638, 641 (Okla. Crim. App. 1994) (“When an offense is commenced outside of Oklahoma but is consummated within the boundaries of Oklahoma, jurisdiction lies within the county in which the offense is consummated.”)

#### *South Carolina*

no applicable statute, only case law

*State v. Dudley*, 581 S.E.2d 171, 179 (S.C. Ct. App. 2003) (“where a person, being beyond the limits of a State or Country, puts in operation a force which produces a result and constitutes a crime within those limits, he is as liable to indictment and punishment, if jurisdiction can be obtained of his person, as if he had been within the limits of the State or Country when the crime was committed”), *aff’d, as modified*, 614 S.E.2d 623, 626 (S.C. 2004)

#### *South Dakota*

S.D. CODIFIED LAWS § 23A-16-2

*State v. Winkler*, 260 N.W.2d 356, 360 (S.D. 1997) (“a crime is committed where the criminal act takes effect . . . even though the accused is never actually present within the state’s jurisdiction”)

#### *Tennessee*

TENN. CODE ANN. § 39-11-103(b)

*State v. Castillo*, 2020 Tenn. Crim. App. LEXIS 472 at pp. 8–10 (holding that the defendant was properly convicted of conspiracy to sell over 300 grams of methamphetamine when, while in Georgia, he arranged to have the drugs delivered by third parties to persons in Tennessee)

*State v. Legg*, 9 S.W.3d 111, 115–18 (Tenn. 1999) (holding that the defendant was properly convicted of aggravated kidnaping when the victim was kidnapped and injured in Alabama and transported to Tennessee)

#### *Texas*

TEXAS PENAL CODE §§ 1.04(a)(1), (2)

Rodriguez v. State, 146 S.W.3d 674, 676 (Tex. Crim. App. 2004) (phrase “that is an element of the offense” in § 1.04(a)(1) of the Texas Penal Code “applies to both ‘conduct’ and ‘result’”)

Roberts v. State, 619 S.W.2d 161, 164 (Tex. Crim. App. 1981) (stating general rule)

Torres v. State, 141 S.W.3d 645, 654-55 (Tex. App.—El Paso, 2004, *pet. ref’d*) (holding that the defendant was properly convicted of murder when the victim’s body was found in Texas, creating the presumption that he died, *i.e.*, the *result occurred*, in Texas)

Carrillo v. State, 2005 Tex. App. LEXIS 6709, at 4 (Tex. App.—El Paso Aug. 18, 2005, *no pet.*) (“a Texas court has territorial jurisdiction over a telephone-harassment case if the caller makes the call from within this state *or the recipient of the call is within this state*”) (emphasis added) (holding that the defendant was properly convicted of telephone harassment when telephone calls were made to a person residing in Texas, regardless of where the calls originated)

### *Utah*

UTAH CODE ANN. §§ 76-1-201(1), (2)

State v. Johnson, 79 P.3d 419, 420 (Utah. Ct. App. 2002) (stating general rule)

State v. Amoroso, 975 P.2d 505, 508–09 (Utah Ct. App. 1999) (holding that the defendant could be prosecuted for making illegal beer sales in Utah when, while in Illinois, he sold beer to be delivered to Utah in violation of Utah law)

State v. Coando, 784 P.2d 1228, 1229–31 (Utah. Ct. App. 1989) (holding that the defendant was properly convicted of issuing bad checks when, although the checks were written on tribal land, they were dishonored on non-tribal land in Utah)

### *West Virginia*

no applicable statute, only case law

State v. Dennis, 607 S.E.2d 437, 451–52 (W.Va. 2004) (following *Strassheim v. Daily*)

Weil v. Black, 86 S.E. 666, 669 (W.Va. 1915) (“The doctrine that a resident of one state who procures a felony to be committed in another state, by a guilty agent, without being personally present to assist in the commission of the offence, cannot be punished in the state where the offence is committed, has never been recognized by our courts, is inconsistent with our system of jurisprudence, does not rest on any just foundation, tends to encourage the commission of crime, and should be repudiated generally.”) (citation and internal quotation marks omitted)

#### *Wisconsin*

WIS. STAT. § 939.03(1)

Poole v. State, 208 N.W.2d 328, 331 (Wis. 1973) (“a person may be prosecuted for doing an act outside this state which has a criminally proscribed consequence within the state”) (holding that although the defendant lived in Arizona, he was properly convicted of non-support of his family when he failed to provide financial support of his wife and children while they were residents of Wisconsin)

#### *Wyoming*

WYO. STAT. § 6-1-201

Goldsmith v. Cheney, 468 P.2d 813, 815–16 (Wyo. 1970) (interpreting what is now WYO. STAT. § 6-1-201 and applying common law rule)

Turner v. State, 327 P.3d 100, 103–04 (Wyo. 2014) (holding that the defendant was properly convicted of solicitation to commit property destruction when, while in West Virginia, he solicited a third person to set fire to a vehicle in Wyoming that belonged to his former girlfriend)

Dawes v. State, 236 P.3d 303, 306–07 (Wyo. 2010) (holding that the defendant was properly convicted of “larceny by bailee” when, while in California, he wrote unauthorized checks on a Wyoming bank account, which deprived a Wyoming resident of her money)

Innis v. State, 69 P.3d 413, 417 (Wyo. 2003) (stating general rule regarding acts committed outside of State which have an effect in Wyoming)

Marquez v. State, 12 P.3d 711, 715 (Wyo. 2000) (holding that the defendant was properly convicted of various drug conspiracy charges when, while in Colorado, he conspired to deliver controlled substances to Wyoming)

Rios v. State, 733 P.2d 242, 249–50 (Wyo. 1987) (holding that a father was properly convicted of interfering with child custody in Wyoming, even though neither father nor child had ever been in Wyoming, but mother was living in Wyoming)

APPENDIX B:  
STATES THAT HAVE ENACTED  
THE UNIFORM CRIMINAL EXTRADITION ACT (UCEA)  
(FORTY-SEVEN STATES)<sup>42</sup>

<i>State</i>	<i>Enacting § 6 of the UCEA Authorizing Extradition in Circumstances Not Provided for in Federal Law (Non-Fugitives)</i>	<i>Enacting § 6 of the UCEA, As Modified, Forbidding Extradition of a Person Charged with an Offense That Would Not Violate the Law of the Asylum State</i>	<i>Enacting Shield Law Barring Extradition of a Person Charged with an Offense Related to Reproductive Health</i>
Alabama	ALA. CODE § 15-9-34		
Alaska	ALASKA STAT. § 12.70.050		
Arizona	ARIZ. REV. STAT. § 13-3846		
Arkansas	ARK. CODE ANN. § 16-94-207		
California	CAL. PENAL CODE § 1549.1		
Colorado			COLO. REV. STAT. § 16-19-107
Connecticut		CONN. GEN. STAT. § 54-162	
Delaware		DEL. CODE ANN. tit. 11, § 2506	
Florida	FLA. STAT. § 941.06		

<sup>42</sup> The three states that have not adopted the Uniform Criminal Extradition Act have enacted other statutes governing the extradition of criminal suspects. See MISS. CODE ANN. § 7-1-25; N.D. CENT. CODE § 29-30.3-01 *et seq.*; and S.C. CODE ANN. §17-9-10 *et seq.*

Georgia	GEO. CODE ANN. § 17-13-25		
Hawaii			HAW. REV. STAT. § 323J-6
Idaho	IDAHO CODE § 19-4506		
Illinois			725 ILCS 225/6
Indiana	IND. CODE § 35-33-10-3(7)		
Iowa	IOWA CODE § 820.6		
Kansas	KAN. STAT. ANN. § 22-2706		
Kentucky	KY. REV. STAT. ANN. § 440.210		
Louisiana	LA. CODE CRIM. PROC. ANN. art. 262.1		
Maine			ME. REV. STAT. tit. 15, § 203.5
Maryland			MD. CODE ANN., CRIM. PROC. § 9-106
Massachusetts		MASS. GEN. LAWS ANN. ch. 276, § 13	MASS. GEN. LAWS ANN. ch. 276, § 13
Michigan	MICH. COMP. LAW § 780.3a		
Minnesota			MINN. STAT. § 629.06
Missouri	MO. REV. STAT. § 548.061		
Montana	MONT. CODE ANN. § 46-30-294		
Nebraska	NEB. REV. STAT. § 29-734		

Nevada			NEV. REV. STAT. § 179.540
New Hampshire	N.H. REV. STAT. ANN. § 612:6		
New Jersey			N.J. STAT. ANN. § 2A:160-14.1
New Mexico			N.M. STAT. ANN. § 31-4-6
New York		N.Y. Crim. Proc. Law § 570.16	N.Y. Crim. Proc. Law § 570.17
North Carolina	N.C. Gen. Stat. § 15A-726		
Ohio	OHIO REV. CODE ANN. § 2963.06		
Oklahoma	OKLA. STAT. tit. 22, § 1141.6		
Oregon	ORE. REV. STAT. § 133.767		
Pennsylvania	42 PA. CONS. STAT. § 9127		
Rhode Island		R.I. GEN. LAWS § 12-9-8	
South Dakota	S.D. CODIFIED LAWS § 23-24-7		
Tennessee	TENN. CODE ANN. § 40-8-113		
Texas	TEXAS CRIM. PROC. CODE § 51.16		
Utah	UTAH CODE ANN. § 77-30-6		

Ver- mont			VT. STAT. ANN. tit. 13, § 4970
Virginia	VA. CODE ANN. § 19.2-91		
Wash- ington			WASH. REV. CODE § 10.88.250(2)
West Virginia	W. VA. CODE § 62- 14A.2(g)		
Wis- consin	WIS. STAT. § 976.03(6)		
Wyo- ming	WYO. STAT. ANN. § 7-3-206		