

“Send Abortion Back to the States:” Options for Protecting Reproductive Rights in D.C. After *Dobbs*

By Abby Sweeney

In the wake of the Supreme Court’s decision in *Dobbs v. Jackson Women’s Health Organization*, state-level protections for abortion care are essential in guaranteeing the safety and dignity of people capable of pregnancy. In *Dobbs*, the Court overturned almost fifty years of precedent, concluding that *Roe v. Wade* and *Planned Parenthood v. Casey* wrongly determined that pregnant people had a right to access abortion care.¹ In so doing, it sent the issue of abortion back into the purview of state governments unless and until Congress acts on the issue.² In response, Republican-led states began imposing abortion bans, including total bans that prohibit abortion from the moment of fertilization with only limited medical exceptions.³ Democrat-led states have passed laws guaranteeing reproductive rights to their citizens and shielding medical providers and patients from the laws of anti-choice states.⁴ The federal government has not yet placed restrictions on abortions that were not permitted under *Roe* and *Casey*, but some Republicans in Congress have demanded that it enact new limitations.⁵

In this legal environment, abortion rights in the District of Columbia are in a precarious position. D.C.’s local government was created by the federal government, and it exercises unique control over its affairs.⁶ The District is also a target of the second Trump administration, putting the local government’s autonomy and ability to protect its residents in jeopardy.⁷ In March 2025, the Republican-led Congress failed to pass a typically uncontroversial bill to fund D.C.’s government using locally-raised tax dollars.⁸ Despite local officials’ warnings of steep cuts to D.C. services, the standoff continued for months, with far-right members of Congress insisting on attaching riders targeting abortion and voting rights in the District.⁹ As of April 2026, Congress has still failed to pass a bill allowing D.C. to use almost one billion dollars in locally-raised taxes, leading local officials to use creative measures to solve the budget

¹ *Dobbs v. Jackson Women’s Health Organization*, 597 U.S. 215, 302 (2022).

² *See id.* (“The Constitution does not prohibit the citizens of each State from regulating or prohibiting abortion.”); Sahil Kapur, *Republicans demand tougher abortion restrictions to extend Obamacare funds*, NBC NEWS (Nov. 11, 2025), <https://www.nbcnews.com/politics/congress/republicans-demand-tougher-abortion-restrictions-extend-obamacare-fund-rcna243206>.

³ Allison McCann & Amy Schoenfeld Walker, *Tracking Abortion Laws Across the Country*, N.Y. TIMES (Dec. 5, 2025), <https://www.nytimes.com/interactive/2024/us/abortion-laws-roe-v-wade.html>.

⁴ *See id.*; Anna Grace Cole, *Is She Sick Enough? The Impact of Dobbs on Doctors and Pregnant Women*, 91 TENN. L. R. 695, 713 (2024).

⁵ *See* Kapur, *supra* note 2.

⁶ *See* District of Columbia Home Rule Act § 401, Pub. L. 93-198, 87 Stat. 774, D.C. CODE 1-201.01 *et seq.* (1973).

⁷ *See, e.g.*, Exec. Order No. 14252, 90 Fed. Reg. 14559 (Mar. 27, 2025); *Presidential Memoranda: Restoring Law and Order in the District of Columbia*, THE WHITE HOUSE (Aug. 11, 2025), <https://www.whitehouse.gov/presidential-actions/2025/08/restoring-law-and-order-in-the-district-of-columbia/>;

⁸ Maya C. Miller, *D.C. Budget Fix Stalls in the House as Conservative Republicans Balk*, N.Y. TIMES (May 7, 2025), <https://www.nytimes.com/2025/05/07/us/washington-dc-budget-house-johnson.html>.

⁹ *Id.*

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shortfall.¹⁰ Further, in August 2025, President Trump began a law-enforcement surge in the District, which included federalizing members of the National Guard to patrol the city.¹¹ Despite the changes they have already made, Republican federal officials continue to threaten the District’s home rule and target local officials in the press.¹²

These developments show that reproductive rights in D.C. are clearly at risk under the current administration and Congress, and given the limited power of the local government, there are few options for ensuring that the current local protections remain in place. However, there are several potential solutions that would give D.C. residents more local autonomy and protect pregnant people within its jurisdiction. This Note will first discuss the structure of D.C.’s government, the pre-*Dobbs* history of abortion access in D.C., and the impact of *Dobbs* on abortion in the District.¹³ Next, it will examine the D.C. government’s responses to *Dobbs*, including the reproductive rights protections it has enacted since the leak of the Court’s draft opinion in May 2022.¹⁴ Finally, it will analyze the viability of three solutions to protect abortion access in the District: statehood, retrocession to Maryland, and stronger home rule.¹⁵

I. Background

A. Structure of D.C.’s Local Government

Since the District’s creation, the people of the D.C. have been disenfranchised. The federal government controls many aspects of local government even though D.C. residents have little or no say in the election of federal officials. The creation of D.C. was authorized by the ‘Enclave Clause’ of the Constitution, which gives Congress the exclusive authority to govern the “Seat of Government of the United States.”¹⁶ However, since the District’s creation in 1801, Congress has delegated some authority to a local government, and residents have gained more autonomy and federal voting rights over time.¹⁷ Until 1973, the local government took several forms, but was largely appointed by the President rather than elected by the people of the District.¹⁸ There were some reforms before 1973; for example, in 1961, D.C. residents gained three electoral votes for president and vice president with the ratification of the Twenty-

¹⁰ Alex Koma, *How D.C. Solved Its Billion Dollar Budget Problem*, WAMU 88.5 (Oct. 22, 2025), <https://wamu.org/story/25/10/22/dc-budget-congress/>; see Matt Gregory, *What happened to the \$1 billion Congress withheld from D.C.?* WUSA9 (Sep. 25, 2025), <https://www.wusa9.com/article/news/local/dc/congress-withheld-1-billion-dollars-from-dc-what-happened-to-the-money/65-c3556d6d-4e0f-4142-b6ad-55b5c4fee05a>.

¹¹ *Restoring Law and Order in the District of Columbia*, *supra* note 6.

¹² For example, in a September 2025 House hearing, Representative Marjorie Taylor Greene claimed that D.C. was “‘filled with crime.’” Hailey Fuchs, *GOP-led House committee approves bills targeting DC autonomy*, POLITICO (Sep. 10, 2025), <https://www.politico.com/news/2025/09/10/house-republicans-dc-crime-bills-00556972>.

¹³ *Infra* Part I.

¹⁴ *Infra* Part II.

¹⁵ *Infra* Part III.

¹⁶ U.S. CONST. art. I, § 8, cl. 17

¹⁷ JOSEPH V. JAROSAK & BEN LEUBSDORF, CONG. RSCH. SERV., IF12577, GOVERNING THE DISTRICT OF COLUMBIA: OVERVIEW AND TIMELINE (2024) <https://www.congress.gov/crs-product/IF12577>.

¹⁸ *Id.*

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Third Amendment.¹⁹ The District also gained a non-voting delegate in the House in 1971.²⁰ The largest grant of autonomy came in 1973, when Congress passed the D.C. Home Rule Act.²¹ This law established the District’s current form of local government.²² Like state governments, the D.C. government consists of a legislative, executive, and judicial branch.²³ Legislative power rests with the D.C. Council, a unicameral legislature of thirteen partisan members.²⁴ Executive power is granted to the Mayor, who serves four-year terms.²⁵ D.C. also has an elected attorney general.²⁶ The District’s judiciary consists of the D.C. Court of Appeals and Superior Court, whose judges are nominated by the President from a list gathered by a local commission and confirmed by the Senate.²⁷

Despite these grants of power, Congress maintains significant control over the District’s governance. The Home Rule Act contains a reservation of power to Congress, stating that it “reserves the right, at any time, to exercise its constitutional authority as legislature for the District, by enacting legislation for the District on any subject . . . including legislation to amend or repeal any law in force in the District.”²⁸ The Council’s powers are also limited: the Home Rule Act restricts what it can affirmatively pass into law and grants Congress the power to review the laws it passes.²⁹ Congress has 30 in-session days to review most D.C. laws, while some criminal procedure laws have a 60-day waiting period.³⁰ There are no exceptions to this process, and as such, even the District’s annual budget must be submitted to Congress even though it only uses local, rather than federal, tax dollars.³¹ Additionally, D.C. has no voting representation in Congress, so District residents have no control over this process or say in the amendment or repeal of laws that largely impact only them.³² Since 1973, the federal government has nullified only four D.C. laws through the process detailed in the Home Rule Act: two criminal laws, one building height restriction law, and the Location of Chanceries Act of 1979.³³

¹⁹ U.S. CONST. amend. XXIII.

²⁰ *Id.*

²¹ District of Columbia Home Rule Act § 401, Pub. L. 93-198, 87 Stat. 774, D.C. CODE 1-201.01 *et seq.* (1973).

²² *Id.*

²³ *See id.*

²⁴ *Id.*

²⁵ *Id.* § 421.

²⁶ *Id.* § 435.

²⁷ *See id.* § 433.

²⁸ *Id.* § 602.

²⁹ *Id.* § 604.

³⁰ *DC Governance*, GOVERNMENT OF THE DISTRICT OF COLUMBIA, (last visited Dec. 11, 2025) <https://statehood.dc.gov/page/dc-governance>.

³¹ *See Gregory*, *supra* note 6.

³² *See id.*

³³ CHRISTOPHER M. DAVIS, JOSEPH V. JAROSAK & BEN LEUBSDORF, CONG. RSCH. SERV., IN12122, CONGRESSIONAL DISAPPROVAL OF DISTRICT OF COLUMBIA ACTS: OVERVIEW OF SELECTED RESOLUTIONS (2023), <https://www.congress.gov/crs-product/IN12122>.

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B. History of Abortion Access in D.C. and the Impact of Dobbs

In 1901, Congress banned abortion in D.C. with exceptions for the life or health of the mother.³⁴ The Supreme Court upheld a version of this restriction in *United States v. Vuitch*, only two years before *Roe*.³⁵ From 1973 to 2004, D.C.’s criminal prohibition on abortions remained in the D.C. Code even though abortion was protected under *Roe v. Wade*.³⁶ In 2004, the Council passed the Elimination of Outdated Crimes Amendment Act, removing the criminal penalties for abortion from the Code.³⁷ As such, when *Roe v. Wade* was overturned, D.C. law did not contain any criminal restrictions on abortion that went back into effect, unlike in other states.³⁸

Since Congress passed the Home Rule Act, abortion access in D.C. has been a source of contention between the local government and Congress. Shortly after *Roe v. Wade*, abortion opponents in Congress attempted to curtail abortion in D.C., but failed.³⁹ However, since 1988, Congress has inserted the Dornan Amendment into each D.C. local budget, which prohibits the government from using local tax dollars to pay for abortions through Medicaid.⁴⁰ D.C. is also subject to the Hyde Amendment, which Congress has used to prohibit the use of federal funds for abortions since 1977.⁴¹ The combination of the Hyde and Dornan Amendments imposes abortion restrictions on D.C. that states are not subject to, as they may use state tax dollars to pay for abortions for low-income individuals.⁴² Abortion has also been a source of contention between Congress and the D.C. Council in the past ten years. For example, in 2015, the Council passed the Reproductive Health Non-Discrimination Amendment Act, which banned employment discrimination based on an individual’s reproductive health decisions, including the decision to get an abortion. The House of Representatives voted to strike down the law, a power it had not invoked regarding

³⁴ *United States v. Vuitch*, 402 U.S. 61, 70 (1971).

³⁵ *Id.* at 72.

³⁶ See Elimination of Outdated Crimes Amendment Act of 2003, D.C. Law 15-154 (2004); D.C. CODE § 22-101 (1981).

³⁷ See *id.*

³⁸ See, e.g., Jesus Jimenez, *What is a trigger law? And which states have them?* N.Y. TIMES (May 4, 2022), <https://www.nytimes.com/2022/05/04/us/abortion-trigger-laws.html>.

³⁹ Harry Jaffe, *Republicans Are Sending Abortion Back to the States. But D.C. Isn’t A State*, POLITICO (Jun. 28, 2022), <https://www.politico.com/news/magazine/2022/06/28/dc-abortion-ban-00042675>.

⁴⁰ Casca Dominiski, *Reproductive Rights and DC statehood: How the precarious state of abortion access in our capital impact patients*, PLANNED PARENTHOOD OF METRO. WASH., DC (Jul. 1, 2024), <https://www.plannedparenthood.org/planned-parenthood-metropolitan-washington-dc/stories/reproductive-rights-and-dc-statehood-how-the-precarious-state-of-abortion-access-in-our-capital-impacts-patients>.

⁴¹ Alina Salganicoff *et al.*, *The Hyde Amendment and Coverage for Abortion Services Under Medicaid in the Post-Roe Era*, KFF (Mar. 14, 2024), <https://www.kff.org/womens-health-policy/the-hyde-amendment-and-coverage-for-abortion-services-under-medicare-in-the-post-roe-era/>.

⁴² See *State Funding of Abortions Under Medicaid*, KFF (Nov. 6, 2024), <https://www.kff.org/medicaid/state-indicator/abortion-under-medicare/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>

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D.C. in nearly 35 years.⁴³ The law, however, was eventually put in force, as the Senate and President refused to repeal it.⁴⁴

Abortion is legal in D.C. at all stages of pregnancy, with no restrictions on late-stage abortions, making it one of the least restrictive jurisdictions in the country.⁴⁵ D.C. has no waiting periods on abortions and no parental notification requirement for minors.⁴⁶ It also bans discrimination against health care providers for participating in an abortion procedure or abortion training, or for their willingness or unwillingness to provide an abortion.⁴⁷ Additionally, in 2020, the Council passed the Strengthening Reproductive Health Protections Amendment Act, which requires the District government to “recognize the right of every individual who becomes pregnant to decide whether to carry a pregnancy to term, to give birth, or to have an abortion.”⁴⁸ Further, it prohibits the District government from punishing individuals for self-inducing an abortion or for any act or omission that impacts their pregnancy.⁴⁹ The law also removed a provision from D.C. Code stating that certain code sections “shall not be construed to require an employer to provide insurance coverage related to a reproductive health decision.”⁵⁰ Despite these protections and the bans in other states, D.C. experienced only a slight rise in abortions in the months after the *Dobbs* decision, and abortions dropped significantly from June to December 2023 and then climbed beginning in 2024.⁵¹

Even though abortion is protected today, the *Dobbs* decision has put abortion access in D.C. into legal jeopardy. Since the Court’s decision in 2022, Republicans in Congress have vowed to limit D.C.’s existing reproductive protections or ban the right to abortion in the District entirely.⁵² However, the Trump campaign and administration have sent conflicting messages about abortion in D.C. In August 2024, the campaign press secretary Karoline Leavitt stated that “President Trump has long been consistent in supporting the rights of states, and the District of Columbia, to

⁴³ Aaron C. Davis, *House votes to strike down D.C. law banning reproductive discrimination*, WASH. POST (Apr. 30, 2015), https://www.washingtonpost.com/local/dc-politics/house-targets-dc-law-banning-reproductive-discrimination/2015/04/30/77f48dde-ef29-11e4-a55f-38924fca94f9_story.html.

⁴⁴ *See id.*

⁴⁵ Julie Carey *et al.*, *Abortion Laws in DC, Maryland, Virginia: What Happens if Roe v. Wade is Overturned* (May 3, 2022), NBC4 WASHINGTON, <https://www.nbcwashington.com/news/local/abortion-laws-washington-dc-maryland-virginia-what-happens-if-roe-v-wade-is-overturned/3041590/>.

⁴⁶ *Consumer Alert: Questions and Answers on Abortion Care and Freedom of Expression in the District of Columbia*, OFF. OF THE ATT’Y GEN. FOR D.C. (Jan. 13, 2023), <https://oag.dc.gov/release/consumer-alert-questions-and-answers-abortion-care#:~:text=Abortion%20is%20legal%20at%20all,even%20later%20in%20a%20pregnancy.>

⁴⁷ D.C. CODE § 2-1402.92 (2020).

⁴⁸ Strengthening Reproductive Health Protections Amendment Act of 2020 § 105a(b), D.C. Law 23-90 (2020).

⁴⁹ *Id.* § 105a(c)(3).

⁵⁰ *Id.* § 2(a)(2)(A).

⁵¹ *#WeCount Data Explorer*, SOCIETY OF FAMILY PLANNING (Jun, 23, 2025), <https://societyfp.org/research/wecount/wecount-december-2024-data/>.

⁵² Jaffe, *supra* note 27.

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make decisions on abortion.”⁵³ At the same time, the campaign vowed to assert greater federal control over the city, calling the government “horribly run,” and the administration has targeted D.C.’s autonomy on multiple fronts.⁵⁴

II. The D.C. Government’s Response to *Dobbs*

Since the leak of the *Dobbs* decision in May 2022, the Council has passed at least five laws strengthening reproductive rights in the District. In October 2022, the Council passed the Human Rights Sanctuary Amendment Act of 2022, which made D.C. a sanctuary for people seeking abortions given the potential that other states would pass abortion travel bans.⁵⁵ The law prohibits District officers and employees from aiding in a criminal or civil investigation that targets individuals for seeking or performing an abortion, providing or using contraception, or engaging in sexual conduct. The law also provides a private cause of action.⁵⁶ Also in that month, the Council also passed the Enhancing Reproductive Health Protections Amendment Act of 2022, which reaffirms a patient’s right to seek and provide abortions and a doctor’s right to counsel patients about abortion.⁵⁷ It also prohibits the District from penalizing individuals for self-inducing or managing their abortion and provides a private cause of action if a District official violates the act.⁵⁸ Additionally, in December 2022, the Council passed the Protecting Health Professionals Providing Reproductive Health Care Amendment Act of 2022. This law prohibits medical licensing boards from taking reciprocal disciplinary action against medical professionals if they were disciplined in another state solely for providing an abortion or other reproductive health care. It also authorizes the Mayor to expedite an individual’s medical license if their license has been revoked in another state because they provided an abortion or other reproductive care.⁵⁹

The Council has continued to pass laws that strengthen reproductive rights since the immediate aftermath of *Dobbs*. In 2024, it passed the Insurance Regulation Amendment Act of 2024, which requires individual and group health plans to cover abortion at no cost to the patient, with exceptions only for high-deductible health plans. Notably, it does not include a religious exception.⁶⁰ It also passed the Safe and Supported Pregnancy and Delivery Amendment Act of 2024, which requires the D.C.

⁵³ Jordan Young, *DC abortion access and Trump: Why advocates are bracing for restrictions*, NBC4 WASHINGTON (Nov. 20, 2024), <https://www.nbcwashington.com/news/local/dc-abortion-access-and-trump-why-advocates-are-bracing-for-restrictions/3768280/>.

⁵⁴ Michael Schaffer, *Trump’s Latest Move to Avoid Abortion Is His Strangest One Yet*, POLITICO (Aug. 30, 2024), <https://www.politico.com/news/magazine/2024/08/30/trump-dc-abortion-ban-column-00176791>; see, e.g., Exec. Order No. 14,333, 90 Fed. Reg. 39301 (Aug. 11, 2025).

⁵⁵ Human Rights Sanctuary Amendment Act of 2022 § 101(a), D.C. Law 24-257 (2022).

⁵⁶ *Id.* § 101(b).

⁵⁷ Enhancing Reproductive Health Protections Amendment Act of 2022 § 101, D.C. Law 24-254 (2023).

⁵⁸ *Id.* § 101(c)(3)–(d).

⁵⁹ Protecting Health Professionals Providing Reproductive Health Care Amendment Act of 2022, D.C. Law 24-307 (2022).

⁶⁰ Insurance Regulation Amendment Act of 2024, D.C. Law 25-305 (2025).

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Department of Corrections to make pregnancy testing and pregnancy and abortion counseling available to inmates.⁶¹

Since the *Dobbs* decision, elected officials in D.C. have vowed to use their, albeit limited, power to keep abortion legal in D.C. and fight restrictions by the federal government. This response was nearly uniform, with at least four Councilmembers publicly condemning the decision and warning of its potential impact on pregnant people.⁶² However, since Trump began targeting D.C. in early 2025, some officials have attempted conciliation rather than political attack. For example, in March 2025, Mayor Muriel Bowser announced that the government would remove the street mural on Black Lives Matter Plaza, which she had initially said would be a permanent installation, after a Republican representative introduced a bill conditioning D.C.’s federal funding on the removal of the artwork.⁶³ It is unclear if she and other politicians would extend this approach to abortion if the federal government decided to target those rights rather than focusing on crime in the city.⁶⁴

III. Options for Protecting Abortion Rights

A. Statehood

Abortion advocates in the District have long argued that statehood is the only way to fully protect abortion rights for its residents. If D.C. were a state, federal anti-abortion politicians would no longer have direct control over D.C.’s legislation, allowing the new state to regulate abortion as it sees fit. Abortion rights are overwhelmingly popular among D.C. residents. As of 2025, D.C. had the highest abortion approval of all U.S. states, with 81 percent of adults saying that abortion should be legal in all or most cases and only 17 percent saying it should be illegal in all or most cases.⁶⁵ As such, D.C. voters would be highly likely to elect a state government that would protect abortion.

Under the Biden administration and a Democrat-led House, the prospects for D.C. statehood were better than they had ever been. In 2020, for the first time, the House approved, albeit along party lines, a bill to make D.C. a state. At the time, more than three-quarters of voters in the District were registered as Democrats, and thus, Republicans opposed statehood as a grant of power to their political opponents.⁶⁶ As a new state, D.C. would receive two Senators and at least one Representative, shifting the balance of power in the federal government toward Democrats.⁶⁷ In 2021, the

⁶¹ Safe and Supported Pregnancy and Delivery Amendment Act of 2024, D.C. Law 25-326 (2025).

⁶² Glynis Kazanjian, *Bowser, Norton vow to keep abortion legal in DC following historic Supreme Court decision*, ABC7 News (June 24, 2022), <https://wjla.com/news/local/roe-v-wade-us-supreme-court-decision-mayor-muriel-bowser-eleanor-holmes-norton-planned-parenthood-lucy-meyers-congress-statehood-president-joe-biden-alyssa-silverman-brooke-pinto-mary-cheh-christina-henderson>.

⁶³ Juliana Kim, *D.C.’s Black Lives Matter mural will be erased. Look back at the iconic street painting*, NPR (Mar. 8, 2025), <https://www.npr.org/2025/03/08/nx-s1-5321872/dc-black-lives-matter-street-mural-history>.

⁶⁴ See, e.g., Exec. Order No. 14333, 90 Fed. Reg. 39301 (Aug. 11, 2025).

⁶⁵ Jeff Diamant & Becka A. Alper, *Americans’ views on abortion differ by state*, PEW RESEARCH CENTER (Jun. 12, 2025), <https://www.pewresearch.org/short-reads/2025/06/12/americans-views-on-abortion-differ-by-state/>.

⁶⁶ Emily Cochrane, *In Historic Vote, House Approves Statehood for the District of Columbia*, N.Y. TIMES (June, 26, 2020), <https://www.nytimes.com/2020/06/26/us/politics/dc-statehood-house-vote.html>.

⁶⁷ See *id.*

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House again approved D.C. statehood. In both 2020 and 2021, the Senate never took up the measure despite the support of Democrats.⁶⁸

The political consequences of statehood are its greatest barrier, making it very unlikely and thus a bad option for protecting abortion rights. Despite the increasing popularity of the statehood movement in 2020 and 2021, Republican arguments against D.C. statehood have not shifted since the House defeated a statehood vote 277 to 153 in 1993.⁶⁹ They have consistently claimed that the new state would essentially be an arm of the federal government, that the city can barely govern itself, and that it is too small both geographically, economically, and in population to be a functional state.⁷⁰ As such, they have argued that they are not opposed to voting rights for D.C. residents because D.C. could become a part of Maryland in a process called retrocession, gaining the voting rights of citizens of that state.⁷¹ Further complicating this situation, opponents of statehood argue that the Twenty-Third Amendment, which grants the District three presidential electors, precludes statehood.⁷² Some scholars respond that this is a policy concern rather than a constitutional one: if D.C. became a state, the remaining federal enclave would have a tiny population but still get three electoral votes, which is inadvisable but not unconstitutional on its face.⁷³ To solve this problem, the Twenty-Third Amendment could be repealed, and recent bills regarding statehood have provided for this process to be expedited.⁷⁴ Despite this nominally easy solution, D.C. statehood would need approval from a Republican House, Senate, and President to succeed today, which is a high bar it is extremely unlikely to meet. As such, it is not the District's best option to protect abortion rights.

B. Retrocession to Maryland

D.C. could also protect abortion rights by retroceding back into Maryland. Like Washingtonians, Maryland residents overwhelmingly support abortion rights by a margin of 71 to 28 percent.⁷⁵ The abortion rights protected in Maryland are similar to those in D.C. The right to reproductive freedom was added to Maryland's state constitution in 2025 following a referendum in November 2024.⁷⁶ Thus, barring a federal abortion ban or another amendment to the Maryland constitution, abortion

⁶⁸ Victoria Crow & Vivian Ho, *Why isn't D.C. a state? Trump's takeover reignites calls for statehood*, WASH. POST (Aug. 12, 2025), <https://www.washingtonpost.com/dc-md-va/2025/08/12/dc-statehood-trump-federal-takeover-explained/>.

⁶⁹ See B. Drummond Ayres Jr., *House Soundly Defeats a Proposal On District of Columbia Statehood*, N.Y. TIMES (Nov. 22, 1993), <https://www.nytimes.com/1993/11/22/us/house-soundly-defeats-a-proposal-on-district-of-columbia-statehood.html>.

⁷⁰ See *id.*; Cochrane, *supra* note 54.

⁷¹ Richard Brownell, *The Alexandria Retrocession of 1846*, BOUNDARY STONES (Dec. 16, 2020), <https://boundarystones.weta.org/2016/07/08/alexandria-retrocession-1846>.

⁷² Jessica Bulman-Pozen & Olatunde C.A. Johnson, *Federalism and Equal Citizenship: The Constitutional Case for D.C. Statehood*, 110 GEO. L.J. 1269, 1311–1312 (2022).

⁷³ *Id.*

⁷⁴ H.R. 51, 117th Cong. § 224 (2021).

⁷⁵ Diamant & Alper, *supra* note 53.

⁷⁶ Scott Maucione, *Abortion will be protected in the Maryland state constitution*, NPR (Nov. 5, 2024), <https://www.npr.org/2024/11/05/g-s1-32723/abortion-will-be-protected-in-the-maryland-state-constitution>.

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will remain legal in Maryland.⁷⁷ Additionally, Maryland has shield laws that protect individuals from out-of-state investigations and prosecutions, professional discipline, civil liability, and guard medical information regarding abortions.⁷⁸ Governor Wes Moore also created a stockpile of the abortion medication mifepristone in response to a federal lawsuit challenging its availability.⁷⁹ In 2025, Maryland created the Public Health Abortion Grant program, which provides grants to organizations serving low-income abortion patients.⁸⁰ This is a stark contrast to D.C., which cannot use even locally-raised funds to provide abortions for Medicaid patients.⁸¹

Despite the potential benefits to abortion rights, retrocession, like statehood, faces political barriers. D.C. politicians, particularly Mayor Bowser and Delegate Eleanor Holmes Norton, have consistently said that the city can and wants to govern its own affairs, so retrocession is not a viable option.⁸² As of April 2026, the D.C. government maintains the position that voters do not want to retrocede, as 86 percent voted in favor of statehood in 2016.⁸³ Since the increased federal focus on the city in 2025, some Maryland politicians have expressed support for this idea.⁸⁴ For example, Congressman Jamie Raskin offered retrocession as an option to Bowser for D.C. residents to escape “the brutal thumb of MAGA colonialism.”⁸⁵ Bowser maintained the position that D.C. should be a state rather than retrocede.⁸⁶

Retrocession arguments have historically been popular with conservative Republicans, possibly increasing their viability in the current political environment. For example, while the House was considering D.C. statehood in 2021, Representative Dusty Johnson introduced the D.C.-Maryland Reunion Act, which would merge the residential portions of D.C. into Maryland, leaving a small federal district including the National Mall.⁸⁷ While statehood would create two additional heavily Democratic Senate seats and a House seat, retrocession would likely only give Maryland a

⁷⁷ *See id.*

⁷⁸ *Maryland Shield Law Fact Sheet*, WILLIAMS INST. (Feb. 2025), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Shield-Law-MD-Sep-2024.pdf>

⁷⁹ Maucinoe, *supra* note 61.

⁸⁰ MD. CODE ANN. HEALTH-GEN. § 13-5502 (West 2025).

⁸¹ *See* Dominiski, *supra* note 28.

⁸² Alan Etter, *Should Maryland ‘retrocede’ DC?* WTOP NEWS (Mar. 11, 2025), <https://wtop.com/dc/2025/03/is-now-the-time-for-dc-to-become-part-of-maryland/>; *Norton Calls Retrocession Bill Proof of Republican Fear of D.C. Statehood Momentum*, CONGRESSWOMAN ELEANOR HOLMES NORTON (Feb. 10, 2021), <https://norton.house.gov/media-center/press-releases/norton-calls-retrocession-bill-proof-of-republican-fear-of-dc-statehood>.

⁸³ *Frequently Asked Questions about Statehood for the People of DC*, STATE OF WASHINGTON, DC (last visited Dec. 11, 2025), <https://statehood.dc.gov/page/faq>.

⁸⁴ *See* Lionel Donovan, *Raskin suggests DC rejoin Maryland to escape ‘MAGA colonialism,’* WUSA9 (Mar. 12, 2025), <https://www.wusa9.com/article/news/politics/federal-fallout/rep-jamie-raskin-suggests-dc-temporarily-join-maryland-escape-federal-rule/65-232510dc-9b70-49b6-8c02-0b37a32ff3c4>.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Johnson: I Am Opposed to D.C. Statehood, But Not Suffrage*, CONGRESSMAN DUSTY JOHNSON (Apr. 22, 2021), <https://dustyjohnson.house.gov/media/press-releases/johnson-i-am-opposed-dc-statehood-not-suffrage>.

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Democratic House seat and no additional Senators.⁸⁸ Still, the Twenty-Third Amendment would likely need to be repealed to prevent an unpopulated area from having three electoral votes.⁸⁹ Additionally, retrocession has historical precedent in D.C. When D.C. was created, it absorbed the town of Alexandria, Virginia.⁹⁰ Mainly citing concerns about D.C. abolishing the slave trade and a lack of voting rights, Alexandria residents lobbied both the Virginia state government and Congress to allow the town to retrocede to Virginia.⁹¹ In 1846, the Virginia legislature passed a law to that effect, and Congress passed and the President signed a law allowing retrocession soon after.⁹² Using this event as a model, retrocession of the bulk of D.C., to Maryland would only require the approval of Maryland and Congress.⁹³ While statehood is more supported by local officials and would allow D.C. to retain its current abortion rights protections, this option would give D.C. full voting rights in Congress and the protection of a state government without the intense political battles statehood would need to surpass.

C. Stronger Home Rule

Stronger home rule is both unlikely to gain Congressional approval and unlikely to protect abortion rights in D.C. Since at least the 1990s, Congress has viewed D.C. as a testing ground for possible national policies, and attacks against D.C.’s home rule have become more prevalent during the second Trump administration.⁹⁴ In February 2025, Republicans introduced bills in both houses of Congress to repeal the Home Rule Act.⁹⁵ Both bills were targeted at Mayor Bowser, calling it the “Bringing Oversight to Washington and Safety to Every Resident Act,” spelling out Bowser’s name in the acronym.⁹⁶ They did not move forward in either house. However, in November 2025, Republicans in the House introduced a set of thirteen bills targeted at D.C.⁹⁷ Two of the bills passed: one that would reinstate cash bail, which the District abolished in 1992, and one that repealed police reforms such as a ban on certain neck restraints.⁹⁸ In this environment, the federal government is unlikely to reverse course and allow D.C. more autonomy.

⁸⁸ Michael Schaffer, *DC Isn’t Becoming a State. But It Could Become Maryland*, POLITICO (Apr. 18, 2025), <https://www.politico.com/news/magazine/2025/04/18/dc-statehood-maryland-trump-00297790>.

⁸⁹ Bulman-Pozen & Johnson, *supra* note 58, at 1311–1312.

⁹⁰ Brownell, *supra* note 71.

⁹¹ *Id.*

⁹² *Id.*

⁹³ *See id.*

⁹⁴ Meryl Justin Chertoff, *Washington, DC Needs Stronger ‘Home Rule,’* STATE COURT REPORT (Apr. 11, 2025), <https://statecourtreport.org/our-work/analysis-opinion/washington-dc-needs-stronger-home-rule>.

⁹⁵ H.R. 1089, 119th Cong. (2025); S. 440, 119th Cong. (2025).

⁹⁶ *Id.*

⁹⁷ *District Leaders Issue Joint Statement Opposing Bills to Amend DC Laws*, GOV’T OF D.C. (Nov. 17, 2025), <https://mayor.dc.gov/release/district-leaders-issue-joint-statement-opposing-bills-amend-dc-laws>.

⁹⁸ Mark Segaves, *House passes bills targeting two DC public safety laws*, NBC4 WASHINGTON (Nov. 20, 2025), <https://www.nbcwashington.com/news/local/house-passes-bills-targeting-two-dc-public-safety-laws/4018756/>

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D.C.’s home rule is weaker than that granted by states to their local governments. Grants of home rule vary widely between states, but it typically allows local governments to take action on local issues without specific authorization from the state and limits the state’s power to intervene in local government decisions.⁹⁹ Home rule has many forms, but no type of it allows state governments to preemptively review local government legislation. Instead, depending on the state’s rules, it can attempt to preempt local legislation or sue to block it as inconsistent with state law.¹⁰⁰ It also does not have a state government above it to interface with the federal government, the protections of the Tenth Amendment, or the ability to select its own judges to interpret state law.¹⁰¹ Although some states constrain local government power under Dillon’s Rule rather than granting home rule, D.C.’s local government has less power than local governments in Dillon’s Rule states. State legislatures that use Dillon’s Rule create a more limited form of local government, allowing them to only exercise powers expressly granted, necessarily or fairly implied by those express powers, or those essential to accomplishing those powers.¹⁰² Under this system, courts must resolve any doubt about the meaning of the grant of power in favor of the state, not the local government.¹⁰³ However, Dillon’s Rule has been decreasing in popularity since at least the 1870s, so that by 1990, forty-eight states provided for home rule for at least some of their cities.¹⁰⁴ The remaining states do not impose the same restrictions the federal government imposes on D.C.: for example, state legislatures do not review laws before they come into effect, and the local population has voting rights in state legislative and gubernatorial elections, not just their local elections.¹⁰⁵ Additionally, some states have protections in their constitution that prevent the state legislature from dissolving the local government; in contrast, Congress would only need to pass a law to retract the Home Rule Act and dissolve D.C.’s current government.¹⁰⁶

Even under a model of stronger home rule, abortion rights in D.C. would still be under threat. In home rule states, the state government retains the power to preempt local laws.¹⁰⁷ Under this system, Republicans could, for example, leave the Dornan Amendment in place and preempt D.C.’s current protections for abortion.¹⁰⁸ Thus, stronger home rule would provide little protection if Republicans continued to see D.C. as a place to experiment with new policies. Additionally, stronger home rule is politically unlikely in the near future: Republicans in the federal government believe

⁹⁹ RICHARD BRIFFAULT, *et al.*, CASES AND MATERIALS ON STATE AND LOCAL GOVERNMENT LAW 408 (9th ed. 2022).

¹⁰⁰ *See, e.g.*, Fla. Retail Fed’n v. City of Coral Gables, 282 So.3d 889 (Fla. Dist. Ct. App. 2019).

¹⁰¹ *See* Chertoff, *supra* note 74.

¹⁰² BRIFFAULT, *supra* note 78, at 391.

¹⁰³ *Id.*

¹⁰⁴ *Id.* at 393.

¹⁰⁵ *See id.*; District of Columbia Home Rule Act, Pub. L. 93-198, 87 Stat. 774, D.C. CODE 1-201.01 *et seq.* (1973).

¹⁰⁶ *See* D.C. Home Rule Act, Pub. L. 93-198, 87 Stat. 774, D.C. CODE 1-201.01 *et seq.* (1973); *see, e.g.*, City of La Grand v. Pub. Emps. Ret. Bd., 576 P.2d 1204, 1207 (Or. 1978).

¹⁰⁷ Kaitlin Ainsworth Caruso, *Abortion Localism and Preemption in a Post-Roe Era*, 27 LEWIS & CLARK L. REV. 585, 591 (2023).

¹⁰⁸ *See id.* at 615; Dominiski, *supra* note 28.

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D.C.’s government is horribly run, so they will not want to give it more power.¹⁰⁹ Retrocession does not present this problem because the Maryland government does not have the same longstanding power struggle with Congress as is inherent in its control of the D.C. local government.¹¹⁰

IV. Conclusion

The D.C. government is in a precarious position, stuck between the will of its residents to enact and protect liberal policies and encroaching Republicans who see the city as a testing ground for conservative policies. Many options, including statehood, retrocession, stronger home rule, or others not covered in this paper, for securing a voice for D.C. residents are technically viable but unlikely in this political environment. Additionally, any option would not withstand a federal abortion ban. Although the Trump administration and Republicans in Congress have not yet focused on abortion rights in D.C., the city’s current legal standing and the impact of the *Dobbs* decision make it an easy target to ban or heavily restrict abortion. If none of the aforementioned solutions come to fruition in the near future, the states have a responsibility to help D.C. determine its own future. The lack of meaningful federal voting rights for D.C. residents violates the principles inherent in the Constitution, and its inability to dictate its own future regarding abortion, an issue which the Supreme Court has said is for the people to decide, demonstrates that hypocrisy. D.C. is the center of American power, and its residents should be afforded the same respect as those who live in the states to determine how and if to regulate abortion. Anything else is an affront to democracy.

¹⁰⁹ See, e.g., Schaffer, *supra* note 42.

¹¹⁰ See Jaffe, *supra* note 27.