

# Idaho teen and mother charged with kidnapping after taking 15-year-old girl to Oregon for abortion

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An Idaho teenager and his mother—Kadyn Swainston, 18, and his mother Rachael Swainston—were arrested last week on charges of kidnapping after they brought a 15-year-old girl, known in court documents as K.B., to Oregon for her to receive an abortion in May.

Idaho joined many states across the US that banned abortion in the wake of the Supreme Court's decision to overturn *Roe v. Wade* in June 2022, enforcing a 2020 “trigger law” prohibiting nearly all abortions except in cases where the life of the mother is at risk.

In April, Idaho became the first state to attempt to ban internal and interstate travel for abortion care. It created a definition of an “abortion trafficker” as “an adult who, with the intent to conceal an abortion from the parents or guardian of a pregnant, unemancipated minor, either procures an abortion ... or obtains an abortion-inducing drug for the pregnant minor to use for an abortion by recruiting, harboring, or transporting the pregnant minor within this state commits the crime of abortion trafficking.”

It also added, “It shall not be an affirmative defense to a prosecution ... that the abortion provider or the abortion-inducing drug provider is located in another state.”

According to statements from K.B. in court documents, she and Kadyn were in a consensual relationship when he was 17 and she was 15 and continued the relationship after he turned 18. When she discovered she was pregnant, she was “happy” to keep the baby, but Kadyn was not, reportedly saying he would not pay child support and that their relationship would be over if she had the child. Rachael then organized for them to travel to Oregon for K.B. to receive an abortion.

Accounts from the girl's mother claim she was coerced into the abortion, while Rachael claims it was a mutual and consensual operation. K.B. was supposed to be living with her father but had been living with the Swainstons for six months.

Idaho's abortion trafficking law is currently embroiled in legal challenges. Therefore, state prosecutors decided to charge Kadyn and Rachael Swainston with language that mirrors the law but does not explicitly cite it, in case the law is struck down by a higher court.

The police became involved when the girl's mother reportedly called the police on June 18 to report Kadyn and Rachael, claiming that her daughter had been raped and kidnapped. The rape charge is a statutory rape charge, based on Kadyn being 18 years old while the girl was only 15.

Based on the allegations of rape and kidnapping, police obtained a search warrant for the Swainstons' home. Police found methamphetamine, fentanyl, psychedelic mushrooms and sexually explicit photographs of the two teenagers. Police also found and arrested a man living in their shed with outstanding warrants for drug trafficking.

Kadyn stands charged with rape, second-degree kidnapping, and three counts of possessing child pornography—all felony charges that could result in a life sentence in prison. Rachael has been charged with second-degree kidnapping, drug trafficking, two counts of possession of a controlled substance and one count of harboring a wanted felon—all also felonies with a potential for a life sentence in prison.

Police also received permission from the court to search the location data on the phones of those

involved, tracking Kadya and K.B. to Bend, Oregon, where the abortion occurred. Investigators were reportedly able to trace all three to cell towers in the Bend area to prove they were in Oregon at the time in question.

The case is a major legal battleground for Republican lawmakers around the country. Idaho was the first state to attempt to ban interstate travel for abortion care, and Republican-led state governments are watching closely how the legal challenges to the law play out. No other states have yet passed laws to ban interstate travel for abortion, but four counties in Texas have passed their own laws prohibiting the use of county roads to transport a person seeking an abortion elsewhere.

These travel bans are based on questionable legal authority. Like the state abortion ban in Texas, it relies on a bounty hunter-like system, where private individuals can report any person who aids in the transport of a person seeking an abortion, and there is uncertainty about how these bans will be enforced. Even Supreme Court Justice Brett Kavanaugh, who supported the overturning of *Roe v. Wade*, wrote in his opinion, “May a state bar a resident of that state from traveling to another state to obtain an abortion? In my view, the answer is no, based on the constitutional right to interstate travel.”

This is not a dependable legal defense against abortion travel bans, however. Just as the right-wing Supreme Court could overturn decades of precedent to abolish abortion rights for millions of people, it could just as easily invent a legal justification for bans on interstate travel for abortions.

For its part the Biden administration has limited any opposition to such attacks on the right to an abortion to toothless court battles. In Idaho earlier this month a federal appeals court temporarily limited the state’s ability to enforce its abortion ban in medical emergencies while it addresses legal challenges by the Biden administration. This follows a decision by the 9th Circuit Court to allow the ban to proceed in full force, which itself overturned a lower court order to restrict the ban’s provisions. Overall, this has not even addressed the abortion ban itself but rather whether the state must be required to allow for abortions in the case of a medical emergency, slightly broadening the definition of exceptions for risks to the mother’s life.

While the Swainstons have been charged with

broader crimes beyond abortion trafficking, their case is a test run for the new ban on travel for abortions. Even prior to the overturning of *Roe v. Wade*, nearly one in 10 people who sought an abortion in the United States traveled out of state for abortion services. Since the wave of abortion bans, this number has undoubtedly increased substantially. In Kansas, where an abortion ban was rejected by a referendum vote, 51 percent of all abortions in the state are from out-of-state residents.



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