

BY SUSANNAH LUTHI AND TUCKER DOHERTY

### PRO POINTS

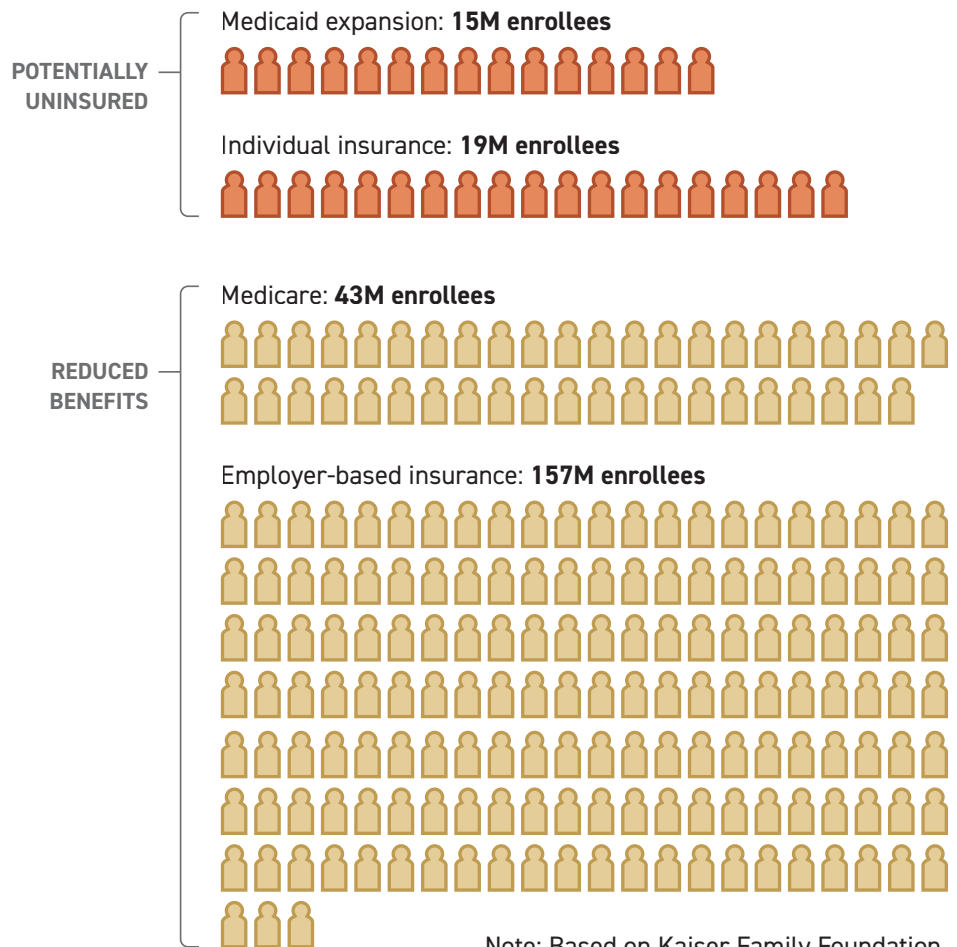
- **The Supreme Court will weigh the legality of** Obamacare for the third time, likely this fall – though a ruling isn't expected until after the Nov. 3 election.
- **The Trump administration joined a coalition of GOP-leaning states trying to overturn the law.** They argue that Congress invalidated the entire Affordable Care Act when Republicans in Congress eliminated the so-called individual mandate, the unpopular tax penalty for the uninsured.
- **The politics of the lawsuit only intensified with the** Covid-19 pandemic that slashed more than 30 million U.S. jobs and cut off millions of Americans from their workplace health insurance.
- **The Trump administration in June must file a brief** laying out its case for why the high court should kill Obamacare. Democrats will use it as a cudgel in November.

### HOW WE GOT HERE

The Supreme Court intercepted a Republican lawsuit against Obamacare from a federal district judge in Texas, who in late 2018 ruled that the entire Affordable Care Act was unconstitutional once Congress effectively axed the law's tax penalty for people who don't have health insurance.

### Coverage potentially affected by ACA repeal

👤 = 1 million affected enrollees



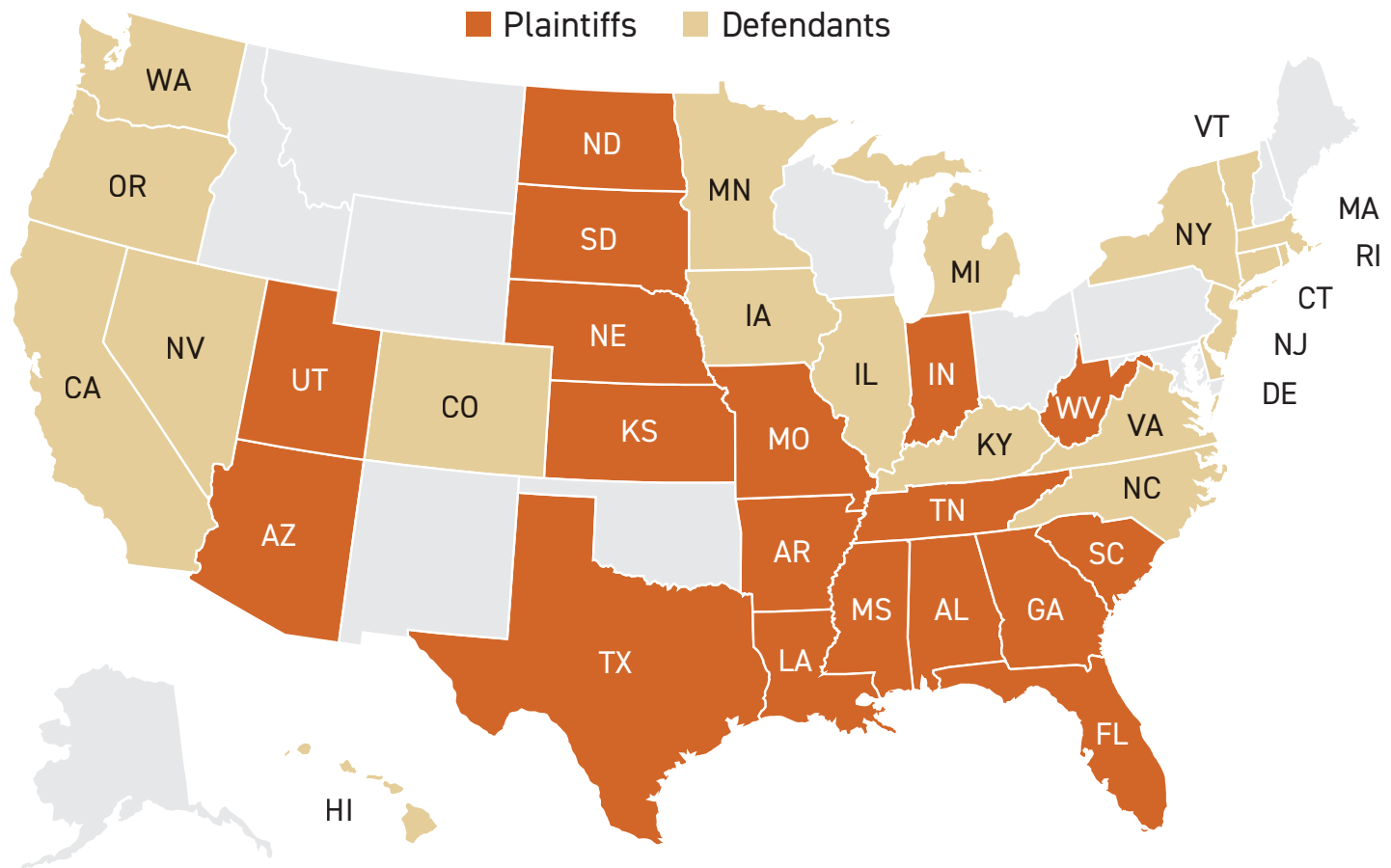
Note: Based on Kaiser Family Foundation analysis of 2018 Census data

The justices will likely consider the case in the fall, potentially before Election Day on Nov. 3. However, they aren't likely to decide the law's fate until 2021. The Supreme Court intervened in the case at the urging of Democratic states, which worried the law could languish in a yearslong legal battle after an appeals court sent the case back to the same Texas judge who already tossed the entire ACA.

The political and policy ramifications are huge. A decade after its passage, the law now enjoys widespread popularity. This stems in part from the GOP's failed 2017 attempt to repeal and replace it with an alternative that would have weakened coverage protections for millions of people with preexisting health conditions. Then a coalition of GOP states sued to kill the law in court, and the White House joined the effort – propelling a nationwide backlash that helped sweep Democrats into the House majority in 2018.

And it's not just popular opinion the GOP and White House have to deal with: Powerful players in U.S. health care have lined up to support Democratic states' legal defense of the law, since the ACA's sweeping provisions touch nearly every aspect of the nation's \$3.6 trillion health care system and funnel billions of dollars each year into insurance companies and hospitals.

### States that have joined the lawsuit



## WHAT'S NEXT

The legal assault on Obamacare comes as jobless Americans are newly relying on the law amid the Covid-19 pandemic and its economic fallout. The soaring unemployment rates are poised to make a big dent in the United States' workplace insurance system.

It's still unclear how many people have turned to the individual Obamacare market exchanges for subsidized plans they're eligible for after losing their job-based coverage. Millions more may rely on Medicaid in the majority of states that have expanded the health coverage program for low-income people. A recent tally from 10 states and D.C. showed more than 160,000 have signed up for ACA plans, although some of this data only went through April. The federal government keeps track of most of the ACA's enrollment numbers for people switching from employer insurance to Obamacare, and those figures won't be published until later in the year.

Regardless, the politics are only going to intensify ahead of the election, especially if employment numbers haven't recovered from the pandemic and the coronavirus is still circulating or even intensifying in the fall.

The White House support for the Texas-led challenge has long divided top administration officials, including Attorney General William Barr and President Donald Trump's health secretary Alex Azar, and that hasn't changed. Barr even urged the White House to soften its position on the law.

And Democrats have been stockpiling campaign ammunition, although they've been timid about pushing their signature health care law as a potentially permanent alternative to employer insurance — proposing in their latest stimulus package to fully subsidize temporary workplace plans rather than expanding financial assistance for the ACA.

### POWER PLAYERS



#### Ken Paxton

The Texas attorney general spearheaded the ACA challenge, which went largely ignored as a long shot until it emerged as a viable threat to the law.



#### Xavier Becerra

The California attorney general assembled a coalition of Democratic-leaning states to defend the law when the Trump administration refused.



#### William Barr

The Justice Department chief is the face of the administration's challenge to the ACA, although he's warned the White House about the political pitfalls of its hardline stance to throw out the entire law.