Roe at Risk: The Threats, the Courts, and You

Forty years ago, the Supreme Court affirmed women’s constitutional right to safe and legal abortion in the landmark case Roe v. Wade. But today, Roe is at risk, with hundreds of new laws restricting abortion rights introduced in the past year alone.

The Threat – Legislative Assaul ts on Abortion Rights

- **Targeted Regulation of Abortion Providers—or “TRAP”—Laws**
  - **What are they?**
    - Passed under the guise of protecting health and safety, these laws regulating abortion clinics or providers are actually thinly-veiled attempts to shut down abortion clinics.
    - They needlessly require abortion clinics to meet the same standards as hospitals, or require providers to attain staff privileges at local hospitals, often an impossible feat.
    - When clinics cannot meet these regulations, they are forced to close. As Mississippi Lt. Governor Tate Reeves said as he signed a Mississippi TRAP bill into law, “We have the opportunity with the signing of this bill to end abortion in Mississippi.”
  - **Where are these?**
    - About 28 states have some version of TRAP laws.
    - According to the Guttmacher Institute, as of March 1, 2014, 27 states have policies requiring unnecessary regulations of abortion clinics, 24 states require abortion clinics to meet the same standards as ambulatory surgical centers, and 13 states unnecessarily require clinic physicians to attain either some kind of affiliation with a local hospital or attain admitting privileges.

- **Bans on Types and Times of Abortion**
  - **What are they?**
    - Some states have enacted outright bans on abortion after a certain point in pregnancy. Some states have attempted to outlaw abortion after six weeks, when many women don’t even know they’re pregnant. Other states have adopted bans after 12 or 20 weeks.
    - Some states have restricted access to medication abortion, such as RU-486, which allows women to safely terminate a pregnancy early in the first trimester without the risks or costs of a surgical procedure.
  - **Where are these?**
    - North Dakota has banned abortions after six weeks of pregnancy; the law is being challenged in federal court. Arkansas has adopted a ban on abortion after 12 weeks of pregnancy. Nine states explicitly ban abortion after 20 weeks.
    - Five states have enacted laws restricting access to medication abortion by requiring physicians to follow outdated labeling protocols.

- **Mandatory Ultrasound Laws**
  - **What is it?**
    - Some states require that before a woman may have an abortion, she must undergo an ultrasound, listen to the provider describe the fetus, and often then wait a certain period of time until she is allowed to actually attain the abortion.
  - Ultrasounds are rarely medically necessary for abortion. Some states require women to undergo an ultrasound prior to an abortion even when it is unnecessary, and additionally, some states

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require a waiting period of up to 24 hours between the ultrasound and the abortion. This causes an unnecessary delay in attaining abortion, often causing additional expense to the woman.  

Where are these?

- Five states have enacted laws requiring that providers must perform an ultrasound, display the image, and describe the fetus to the woman before performing an abortion.  
- Arizona, Louisiana, North Dakota, Virginia, and Texas require woman wait at least 24 hours to attain an abortion after the ultrasound.

**The Fight in the Courts**

Many of the laws restricting abortion have been challenged in federal and state court. That’s why it’s critically important to appoint federal judges who will uphold longstanding precedent guaranteeing women’s right to safe and legal abortion. The state laws being challenged in federal court include:

- **Arizona:** The Ninth Circuit struck down an Arizona law prohibiting abortion after 20 weeks of pregnancy. The state petitioned the Supreme Court for review, but the Court refused to hear the case, leaving the Ninth Circuit decision in place.

- **Arkansas:** A federal judge in March 2014 permanently blocked Arkansas’s law, the “Arkansas Human Heartbeat Protection Act,” which bans abortion after 12 weeks of pregnancy.

- **Mississippi:** Fighting to keep the state’s lone abortion clinic open, advocates are challenging a TRAP law passed in 2012 that requires the clinic’s providers to attain admitting privileges at a local hospital. A federal judge blocked the state from closing the clinic while its providers attempt to get admitting privileges. The Fifth Circuit heard oral arguments in the case in April 2014.

- **North Carolina:** North Carolina’s coercive ultrasound law that requires an ultrasound at least four hours before an abortion—without exception in cases of rape, health of the mother, or fatal fetal abnormalities—is being challenged in federal court. A federal judge struck down the law as unconstitutional. The governor announced his opposition to appealing the ruling, but that decision will ultimately be made by the state attorney general.

- **Texas:** Texas’s law that imposes TRAP requirements, limits access to medication abortion, and bans abortion after 20 weeks of pregnancy has been challenged in federal court. The Fifth Circuit has lifted the District Court’s grant of an injunction on the admitting privileges part of the law. Advocates petitioned the Supreme Court to temporarily block the law, but the Court left the Fifth Circuit decision in place. In March 2014, the Fifth Circuit upheld the admitting privileges and medication abortion restrictions as constitutional.

- **Wisconsin:** Wisconsin’s TRAP law that would force health centers providing abortion in Wisconsin to close is being challenged. A federal district court judge temporarily blocked the law pending trial, and the Seventh Circuit affirmed. The state is seeking appellate review from the United States Supreme Court. Meanwhile, the trial on the merits of the law took place in May 2014.

**What You Can Do**

- Support the nomination and confirmation of judges who will follow precedent and uphold the values of the Constitution. [http://www.afj.org/ourwork/issues/judicial-selection](http://www.afj.org/ourwork/issues/judicial-selection)

- Get involved and join a group advocating for reproductive justice.


- Get the word out on social media using hashtag #RoeAtRisk

- Stay informed about what’s going on in your state. [http://www.guttmacher.org/statecenter/](http://www.guttmacher.org/statecenter/)

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