

Analysis: 40-year-old US abortion fight heats

July 21 2013, by Steven R. Hurst

(AP)—Abortion opponents have fought back vigorously in the 40 years since a landmark U.S. Supreme Court decision legalized the procedure. Now, their battle is gaining ground in some states where new laws are creating stringent barriers to a woman ending her pregnancy.

The confrontation has long been one of the most bitter in America, pitting those who view abortion as the killing of a defenseless human being against those who argue women have the right to decide what happens to their body. In the four decades since the Supreme Court ruling, the divide has not narrowed, with polls indicating Americans remain about evenly split over the issue.

The debate is heating up primarily in states where conservative governors and legislatures, many of them elected in a wave of Republican election victories in 2010, are playing to their anti-abortion base of voters ahead of elections next year.

Texas became the latest state to pass new laws that place difficult roadblocks for women seeking abortions, without directly challenging the Supreme Court's 1973 *Roe v. Wade* decision. Gov. Rick Perry, a former Republican presidential candidate, signed the sweeping new restrictions into law this month, saying it celebrated the "foundation on which the culture of life in Texas is built upon."

The Texas law bans abortions after the 20th week of pregnancy. It also restricts abortions to surgical centers and requires doctors who work at abortion clinics to have hospital admitting privileges. Only five of the 42

abortion clinics in Texas, a state the size of France, meet those requirements.

Abortion rights advocates say the legislation means dozens of clinics will be shuttered.

"These new restrictions they are trying to put on legal abortion are only the beginning of this agenda," said Donna Crane, policy vice president of the NARAL Pro-Choice America, an abortion rights [advocacy group](#). "What the other side really wants to do is make abortion illegal in all circumstances."

Abortion foes counter the new laws reflect the will of many Americans who consider the issue unresolved, despite Roe v. Wade.

"This is really not settled," said Mallory Quigley, a spokeswoman for the anti-abortion Susan B. Anthony List. "There is so much unrest in the hearts and minds of Americans about how we treat life in this country, how we protect women. And what we're seeing in the state legislatures is reflective of what's happening in the hearts and minds of the American people."

Quigley said "more and more Americans are saying they oppose abortion than support it."

But polls show that Americans' feelings about abortion have changed little since Roe v. Wade. The latest Gallup survey from May shows 52 percent of those questioned support abortion under certain circumstances. That's only two percentage points lower than the first such poll in 1975. About 20 percent oppose abortion under any circumstances, while 26 percent support the right to abortion under any circumstances. Both those figures are within just a few percentage points when compared to 1975.

Federal and state judges have largely accepted the argument that it is unconstitutional to ban abortions before the fetus becomes viable. That is usually interpreted as 24 weeks after fertilization, though the *Roe v. Wade* decision leaves the determination to the individual's doctor.

In at least three instances—Arizona, Georgia and Idaho—federal and state judges have struck down abortion bans at 20 weeks after fertilization as unconstitutional. The Texas law is structured so that it will stand even if its ban on abortion after 20 weeks is struck down.

Wisconsin's Republican governor, Scott Walker, has also signed a bill requiring doctors who perform abortions to have admitting privileges at a local hospital. Such laws have been used in other states, such as Mississippi, to block doctors from providing abortions because it can be difficult for them to get those privileges.

A judge has temporarily blocked Wisconsin's provision from taking effect after Planned Parenthood, a major women's health provider, and the American Civil Liberties Union filed suit. The Wisconsin law also requires that women see a sonogram of the fetus before having an abortion.

In North Carolina, the Republican-controlled House of Representatives passed anti-abortion measures attached to a motorcycle safety bill that only mentioned motorcycle safety in the last phrase.

Supreme Court Chief Justice John Roberts, an appointee of former President George W. Bush, has said *Roe v. Wade* is "the settled law of the land."

But back in 1990, when the conservative Roberts was the U.S. principal deputy solicitor general, he criticized the 1973 ruling. The conclusion in *Roe v. Wade* "that there is a fundamental right to an abortion finds no

support in the text, structure or history of the Constitution," Roberts said at the time.

The new state laws appear to be attempts to whittle away the availability of legal abortions while stopping short of outlawing them.

Crane, of NARAL Pro-Choice America, said anti-abortion activists will end up "just going too far" and that the public will make "it clear that this is not what it wants and that politically it will punish the people who pursue this agenda with zealotry." If that happens, she said, politicians "will find something else to move on to."

Far from moving on, however, the fight over [abortion](#) has never seemed more endless.

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