

# US appeals court upholds new Texas abortion rules (Update)

March 27 2014, by Will Weissert

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In this July 18, 2013 file photo abortion rights supporters demonstrate outside the Capitol auditorium in Austin, Texas, after Gov. Rick Perry signed sweeping abortion restrictions that forced the closure of several clinics by requiring doctors who perform abortions to have admitting privileges at a nearby hospital. A federal appeals court on Thursday upheld Texas' tough new abortion restrictions that shuttered many of the abortions clinics in the state. A panel of judges at the New Orleans-based 5th Circuit Court of Appeals overturned a lower court judge who said the rules violate the U.S. Constitution and served no medical purpose. In its opinion, the appeals court said the law "on its face does not impose an undue burden on the life and health of a woman." (AP

Photo/Austin American-Statesman, Jay Janner)

A federal appeals court on Thursday upheld Texas' tough abortion restrictions that have forced the closure of about 20 clinics around the state, saying the new rules don't jeopardize women's health.

A panel of judges at the New Orleans-based 5th Circuit Court of Appeals overturned a lower court judge who said the rules violate the U.S. Constitution and serve no medical purpose. After the lower court's ruling, the appeals court allowed the restrictions to go into effect while it considered the case, which ultimately could end up before the U.S. Supreme Court.

The new law requires abortion doctors to have admitting privileges at a nearby hospital and places strict limits on doctors prescribing abortion-inducing pills. More regulations that are scheduled to begin later this year weren't a part of the case.

In its opinion, the appeals court said the law "on its face does not impose an undue burden on the life and health of a woman."

Planned Parenthood, which sued to block the restrictions, called the ruling "terrible" and said that "safe and legal abortion will continue to be virtually impossible for thousands of Texas women to access."

"The latest restrictions in Texas will force women to have abortions later in pregnancy, if they are able to get to a doctor at all," Cecile Richards, President of Planned Parenthood Votes, said in a statement.

The Republican-controlled Legislature passed and Gov. Rick Perry signed last summer some of the toughest restrictions in the U.S. on

when, where and how women may obtain an abortion.

Debate of the law drew thousands of demonstrators on both sides of the issue to the state Capitol in Austin and sparked a 12-plus hour filibuster by state Sen. Wendy Davis, a Fort Worth Democrat who succeeded in temporarily blocking passage. Though the restrictions later passed overwhelmingly, Davis catapulted to political stardom and is now running for governor.



In this file photo made Monday, July 15, 2013, anti-abortion activist Teresa Steward of Desoto, Texas, stands on the curb sidewalk holding a sign in front of city hall as an abortions rights rally gets underway, in Dallas. A federal appeals court on Thursday March 27, 2014, upheld Texas' tough new abortion restrictions that shuttered many of the abortions clinics in the state. A panel of judges at the New Orleans-based 5th Circuit Court of Appeals overturned a

lower court judge who said the rules violate the U.S. Constitution and served no medical purpose. In its opinion, the appeals court said the law "on its face does not impose an undue burden on the life and health of a woman." (AP

Photo/Tony Gutierrez)

The office of Texas Attorney General Greg Abbott, a Republican who is also now running for governor, defended the law in court. He and Perry, who is not seeking re-election in November, cheered Thursday's ruling.

"This unanimous decision is a vindication of the careful deliberation by the Texas Legislature to craft a law to protect the health and safety of Texas women," Abbott said.

In passing the rules, Texas lawmakers argued they were protecting the health of the woman. But abortion-rights supporters called the measures an attempt to effectively ban abortion through overregulation.

Many abortion doctors do not have admitting privileges and limiting when and where they may prescribe abortion-inducing pills discourages women from choosing that option, they argued.

Other aspects of the new rules, including a requirement that all procedures take place in a surgical facility, are set to begin in September, though they may also be challenged in court.

At least 19 clinics have shut down since the new law was approved and the 5th Circuit allowed the provisions on hospital-admitting privileges and abortion-inducing pills to take effect, leaving around 24 still open to serve a population of 26 million Texans. More closures could happen after the additional restrictions are in place.

In reversing the lower court's decision, the appeals panel said Thursday that the district court opinion erred in concluding the law "imposed an undue burden in a large fraction of the cases."

"The evidence presented to the district court demonstrates that if the admitting-privileges regulation burdens abortion access by diminishing the number of doctors who will perform abortions and requiring women to travel farther, the burden does not fall on the vast majority of Texas women seeking abortions," the appeals court found.

Amy Hagstrom Miller, CEO of Whole Woman's Health, which closed two Texas clinics this month because of the restrictions, was dismayed but not surprised by the ruling.

"Texas has left thousands of women and families behind in its crusade to end safe abortion by any means necessary and they are using women's bodies and women's lives in a political football game," Hagstrom Miller said in a statement.

The U.S. Supreme Court probably will have the last word on the matter. The court's four liberal justices already have indicated they are inclined to hear an appeal.

In November, the four dissented from the high court ruling upholding the 5th Circuit's decision to allow Texas to enforce the law while the lower court appeal proceeded.

Justice Stephen Breyer called the issue of the law's constitutionality a difficult question. "It is a question, I believe, that at least four members of this court will wish to consider irrespective of the Fifth Circuit's ultimate decision," Breyer wrote in a brief opinion that was joined by Justices Ruth Bader Ginsburg, Elena Kagan and Sonia Sotomayor.

Five votes constitute a majority on the nine-justice court, but it takes only four to grant full review of a lower court ruling.

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Citation: US appeals court upholds new Texas abortion rules (Update) (2014, March 27)  
retrieved 27 April 2024 from

<https://medicalxpress.com/news/2014-03-appeals-court-texas-abortion.html>

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