

Mississippi passes law banning abortion after 15 weeks

March 8 2018, by Jeff Amy And Sarah Mearhoff



In this June 30, 2015, file photo, razor grass and pro-choice signs limit the view of patients entering the Jackson Women's Health Organization clinic in Jackson, Miss. The facility is currently Mississippi's only abortion clinic. Abortion law experts say House Bill 1510, which passed the Mississippi Senate Tuesday, March 7, 2018, and is one House vote away from the desk of a governor eager to sign it, is an invitation to the Supreme Court to allow states to begin restricting abortion earlier in pregnancy. The law that passed the Senate would ban most abortions after 15 weeks. (AP Photo/Rogelio V. Solis, File)

Mississippi lawmakers on Thursday passed what would be the nation's most restrictive abortion law, making the procedure illegal in most cases after 15 weeks of pregnancy. The state's only abortion provider pledged to sue, and the attorney general said he expected a tough legal battle ahead.

Lawmakers in the Republican-controlled Legislature appeared not only to expect, but to encourage such challenges in hopes the issue will eventually make its way to the U.S. Supreme Court.

"It seems like a pretty simple bill designed to test the viability line that the Supreme Court has drawn," said David Forte, a law professor at Ohio's Cleveland State University.

The House voted 75-34 in favor of the measure, and Gov. Phil Bryant said again Thursday that he would sign it. The Senate passed the measure on Tuesday.

There are two exceptions to House Bill 1510: if the fetus has a health problem that would prevent it from surviving outside the womb at full term, or if the pregnant woman's life or a "major bodily function" is threatened by the pregnancy. Pregnancies as a result of rape and incest are not exempt.

It's unclear if a 15-week ban will move forward elsewhere. A bill has been filed for Louisiana's upcoming legislative session. Mississippi state Rep. Andy Gipson, a Republican from Braxton, said lawmakers in Texas, Georgia, and "some midwestern states" are exploring the idea. An appeals court in 2015 struck down efforts in North Dakota to ban most abortions after six weeks, when a fetus develops a detectable heartbeat, and in Arkansas after 12 weeks.

"The Supreme Court has said and resaid again and again that states

cannot prohibit women from obtaining abortions prior to viability, which is what a 15-week ban would do," said Hillary Schneller, staff attorney for the national nonprofit Center for Reproductive Rights. The New York-based group, which advocates for free access to abortion, called the bill unconstitutional and "medically unsound."

Mississippi's 20-week ban has never been legally challenged, in part because the state's only abortion clinic, the Jackson Women's Health Organization, doesn't perform abortions that late in pregnancy. According to state Department of Health statistics, 85 percent of abortions in Mississippi took place before 12 weeks in 2016.

But Diane Derzis, who owns the clinic, has said the clinic provides abortions as late as 18 weeks after pregnancy. Most of Mississippi's 2,500 abortions in 2015 took place at the clinic. She said before the bill was passed that she would sue.



Rep. Adrienne Wooten, D-Jackson, questions House Judiciary B Committee Chairman Andy Gipson, R-Braxton, about House Bill 1510, on what is likely to be the nation's most restrictive abortion law, Thursday, March 8, 2018, at the Capitol in Jackson, Miss. The House voted 75-34 in favor of the measure, which would make most abortions illegal after 15 weeks of pregnancy. Republican Gov. Phil Bryant has said he'll sign the bill. The Mississippi Senate passed the measure on Tuesday. (AP Photo/Rogelio V. Solis)

Democratic Attorney General Jim Hood said Thursday that he expected legal challenges and he noted that less-restrictive measures banning abortion after 20 weeks of pregnancy have been struck down in other states. The U.S. Senate earlier this year rejected such a ban nationwide when supporters couldn't reach a 60-vote supermajority to act. Mississippi has such a ban, but it has not been challenged yet.

Abortion opponents have been encouraged by a 2007 Supreme Court case, *Gonzalez v. Carhart*, that allowed bans on what some call partial-birth abortions, an abortion performed relatively late in pregnancy, in which the living fetus is extracted in stages through the birth canal. The opponents believe the decision opened a window for states to restrict abortion before a fetus is viable.

"We would welcome the court to clarify the extent to which states can regulate abortions, particularly with regard to maternal health," said Jameson Taylor, acting president of the Mississippi Center for Public Policy, a conservative-leaning group that helped lawmakers write Mississippi's bill.

Taylor said the Alliance Defending Freedom, a Christian conservative legal advocacy group, was among those who vetted the bill's language. The Arizona-based alliance didn't respond to questions, with senior counsel Kevin Theriot saying only that the alliance "supports states'

important and legitimate efforts to protect the health and safety of women and children."

Forte and University of Chicago Law Professor Geoffrey Stone both said they believe the chances the court will consider a major abortion case are slim as long as the current justices remain, though a case could ascend quickly on an emergency appeal of a lower court ruling.

"I think the court wants to stay out of this for a while," Forte said.

The likely hope of Mississippi lawmakers is that one of the justices more favorable to abortion rights, such as Anthony Kennedy or Ruth Bader Ginsburg, will have stepped down by the time the state's case reaches the Supreme Court.

Kennedy, for example, has twice in the past 26 years been part of a 5-4 majority upholding abortion rights.

"If Anthony Kennedy has already stepped down, this would make perfect sense," Stone said.

"They're playing the short, immediate game in circuit courts where they just try and try again, and then they're also playing the long game where they're trying to change the composition of the Supreme Court," said Leslie McGorman, deputy policy director for NARAL Pro-Choice America, a national group supporting abortion rights.

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