

May 12, 2015

Dear Members of the House of Representatives:

We write to you as organizations strongly opposed to H.R. 36, an unconstitutional and dangerous limitation on abortion that puts women's health and rights at risk. The bill is expected on the House floor this week and, if enacted, would impose a nationwide ban on abortions at twenty weeks with only two inadequate and extremely narrow exceptions.

In January, H.R. 36 was pulled from the House floor at the eleventh hour after some supporters of the bill raised concerns over an overly-narrow rape exception that required survivors to report the sexual assault. Late Monday morning, the bill's authors released a revised H.R. 36 that replaces the reporting requirement with new—but similarly restrictive—requirements on survivors of rape. Overall, the changes merely underscore the sponsors' appalling lack of compassion for—or trust in—the women who would be affected by this ban.

The bills' authors are being disingenuous when they claim that this version of the bill no longer narrowly restricts rape survivors' access to abortion. Instead of forcing all rape survivors to report the crime, they are now forcing adult rape survivors either to report the crime or to seek medical care or counseling at least 48 hours prior to getting an abortion. To comply with this requirement, not only does a woman have to see a provider other than the one providing the abortion, but she cannot see any provider in the same facility where abortions are performed (unless it is a hospital). What this restriction means is that a woman would need at least two appointments with two different providers in order to get an abortion. In reality, this option is as burdensome and as difficult as reporting the crime. Depending on the availability of medical care in the area where a woman lives, it may also be impossible for some women to meet.

The bill retains the reporting requirement for rape survivors who are minors and for incest survivors. This places an unfair burden on minors who need time-sensitive and safe care, not additional reporting and documentation requirements that can become barriers in accessing the care they need. Moreover, the bill also requires that rape and incest survivors provide documentation that they met the medical or counseling care or reporting requirements before they can get an abortion, again underscoring the bill authors' lack of trust in the women seeking such care.

Simply put, this latest version of H.R. 36 once again ignores the experience of a sexual assault survivor by imposing requirements that would deny her control at a critical time and force her to take actions she might not be ready or able to take, which could lead to further trauma and unnecessary risks.

H.R. 36 also criminalizes the delivery of critically-needed and constitutionally protected care, imprisoning health care providers for up to five years just for providing abortions to patients. Such a ban would both interfere with and obstruct the provider-patient relationship, the sanctity of which is a cornerstone of medical care in our country. The American Congress of Obstetricians and Gynecologists, the nation's leading association of medical experts on women's health, has come out in strong opposition to twenty-week bans, citing the serious threat these

laws pose to women's health and because such bans are not based on sound science. Politicians are not medical experts and this is not an area where politicians should be interfering.

The bill also interferes with the provider-patient relationship by mandating an "informed consent" form that conflicts with established medical practice. Moreover, the bill includes a provision requiring abortion providers to report any abortion performed after twenty weeks and the location of the abortion. While the bill specifically provides protections to ensure that such reporting does not reveal the identity of a woman who has an abortion, it fails to include any similar protections for providers.

H.R. 36 is unconstitutional and a direct challenge to *Roe v. Wade*, which held that states may not ban abortion prior to fetal viability, and that post-viability bans must include adequate protections for both a woman's life and health. H.R. 36 clearly violates these established constitutional standards by banning pre-viability abortions outright,¹ including an inadequate life exception, and failing entirely to include a health exception.

A woman's health, not politics, should drive important medical decisions. Women do not look to politicians for advice on mammograms, cervical cancer screenings, or maternal health needs, and abortion is no different. This deeply personal decision should always be made by a woman in consultation with those she trusts, not politicians.

H.R. 36 is a blatant attempt to deny women their constitutional rights and threaten the health of women in the United States. The House of Representatives should reject H.R. 36—just as voters did by a double-digit margin in Albuquerque, New Mexico when faced with a similar ban²—and instead focus on efforts to expand women's access to comprehensive health care.

¹ Similar twenty-week bans have been struck down each time they have been challenged. *See, e.g., Paul A. Isaacson, M.D. et al. v. Tom Horne, Attorney General of Arizona, et al.* 716 F.3d 1213 (9th Cir. 2013) (Arizona law); *McCormack v. Hiedeman*, 900 F. Supp. 2d 1128 (D. Idaho 2013) (Idaho law); *Lathrop, et al. v. Deal, et al.*, No. CV224423, (Sup. Ct. of Fulton Cnty., Ga., Dec. 21, 2012) (Georgia law). The U.S. Supreme Court refused to hear an appeal of the Arizona case, leaving in effect the ruling from the appellate court striking down the law as unconstitutional. In striking down an Arizona twenty-week ban, the United States Court of Appeals for the Ninth Circuit noted: "Since *Roe v. Wade*, 410 U.S. 113 (1973), the Supreme Court case law concerning the constitutional protection accorded women with respect to the decision whether to undergo an abortion has been unalterably clear. . . a woman has a constitutional right to choose to terminate her pregnancy before the fetus is viable. A prohibition on the exercise of that right is *per se* unconstitutional." *Isaacson v. Horne*, No. 2:12-cv-01501-JAT, slip op. at 6 (9th Cir. May 21, 2013).

² Fernanda Santos, Albuquerque Voters Defeat Anti-Abortion Measure, N.Y Times, November 20, 2013, available at http://www.nytimes.com/2013/11/20/us/albuquerque-voters-defeat-anti-abortion-referendum.html?_r=0

Sincerely,

Advocates for Youth
American Association of University Women (AAUW)
American Civil Liberties Union
American Psychological Association
American Public Health Association
Anti-Defamation League
Black Women's Health Imperative
Catholics for Choice
Center for Reproductive Rights
Feminist Majority
Hadassah, The Women's Zionist Organization of America, Inc.
Institute for Science and Human Values
Jewish Women International
Metropolitan Community Churches
NARAL Pro-Choice America
National Abortion Federation
National Center for Lesbian Rights
National Council of Jewish Women
National Family Planning & Reproductive Health Association
National Health Law Program
National Latina Institute for Reproductive Health
National Organization for Women
National Partnership for Women & Families
National Women's Health Network
National Women's Law Center
Physicians for Reproductive Health
Planned Parenthood Federation of America
Population Connection Action Fund
Religious Coalition for Reproductive Choice
Religious Institute
Reproductive Health Technologies Project
Secular Coalition for America
Sexuality Information and Education Council of the U.S. (SIECUS)
Unitarian Universalist Association
Union for Reform Judaism
URGE: Unite for Reproductive & Gender Equity
Women's League for Conservative Judaism