

Planned Parenthood sues Utah over new law banning abortion after 18 weeks

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SALT LAKE CITY — As expected, Planned Parenthood Association of Utah sued the state Wednesday over a newly passed law that bans abortions beginning at 18 weeks of pregnancy.

"We trust women. Every person deserves the right to control their body, life and future," Karrie Galloway, Planned Parenthood's president and CEO, said at a news conference in the state Capitol announcing the lawsuit filed by the ACLU of Utah.



Galloway said that right includes deciding when to become a parent, describing the law passed by the 2019 Legislature and signed by Gov. Gary Herbert as "putting medical decisions in the hands of politicians rather than the woman and her doctor."

The lawsuit filed in U.S. District Court comes as abortion opponents in numerous states are pushing near-total bans on the procedure, with two enacting bans after a fetal heartbeat is detected.

Rep. Cheryl Acton, R-West Jordan, who sponsored the bill that establishes the new limit, HB136, said Utah must at least try to "reset" Roe v. Wade, the landmark 1973 U.S. Supreme Court ruling legalizing abortion.

"Utah needs to put its money where its principles are," Acton said. "I think it's cowardly for a state to say, 'We'd like to have this filed, but let's wait and see if another state can get it for us.' Utah is the perfect state to do it, actually."

She said the state's price tag for a losing legal battle has been estimated at about \$2 million, but her hope is that Utah will end up persuading the Supreme Court to rule that abortion laws are up to the states to determine.

The ACLU's senior staff attorney, Leah Farrell, said the new lawsuit seeks to block the law from taking effect May 14 while the case proceeds. She noted Utah lost a legal battle over a similar attempt in 1991 to ban some abortions.

"We are here today because our Legislature has decided once again to attempt to curb important reproductive rights," Farrell said. "And once again we are standing up to hold the line and to say, 'We will see you in court.'"

Several dozen women and men stood on the steps leading from the rotunda to the House chambers at the news conference, holding bright pink signs with messages including "Trust Women" and "Abortion Is Health Care."

"I remember when abortion was illegal, when I was in high school. If you got pregnant, you were just stuck," one of the participants, retired educator Mary Phillips, of Salt Lake City, said.

The 61-year-old said she worries that time has been forgotten by many.

"Everyone who's middle-aged and under, they've always had access to abortion and the right to choose," Phillips said. "I don't think they understand what it's like to not be able to make a choice."

A young woman standing by herself across the rotunda, Krista Noyes, of Orem, said she was there to support the new law as "a great step in the right direction for women."

Holding a sign with a drawing of a fetus that said, "#Me too? Let me live," Noyes said she does not believe "abortion was moral as a form of birth control. ... I think if you're going to have sex, you need to understand there are consequences."

Planned Parenthood is arguing in the lawsuit that no fetus is viable at 18 weeks.

"Accordingly, the 18-week ban is in flagrant violation of more than four decades of settled Supreme Court precedent, starting with *Roe v. Wade*, which held that a woman has a protected right to end a pregnancy," the lawsuit says.

Since that Supreme Court decision, no court has upheld a law banning abortion prior to viability, according to the lawsuit.

The suit asks a federal judge to declare the law unconstitutional and stop it from taking effect.

Acton originally set the limit for legal abortions at 15-weeks gestation in her bill, but it was revised to 18 weeks before the Republican-controlled Legislature passed it largely along party lines.

During legislative debate, Acton urged lawmakers to support the bill, saying Utah cultivates a "culture of life," and as a state that values families, "Utah should be allowed to enact a reasonable abortion law that reflects the will of the people."

"Utah should be the safest place in the nation for women and children, and all people, really, born and unborn," she said.

Acton said while her bill shortens the legal abortion window, it still preserves a woman's right to have an elective abortion, allowing exceptions for rape, incest, life or permanent impairment of the mother, and fatal fetal defects or severe brain abnormality.

She said Utah previously had limited abortions to before a fetus could be considered viable, and that 22 weeks is seen as when a fetus might be able to survive outside the womb.

Planned Parenthood and the ACLU of Utah said during the legislative session that a lawsuit was inevitable if the bill were to pass.

The lawsuit says the 10th Circuit Court of Appeals has already invalidated a Utah law that banned abortion at 22 weeks of gestation. In striking down that law, the court noted the state's "deliberate decision to disregard controlling Supreme Court precedent."

"Undeterred, Utah has yet again enacted a patently unconstitutional ban on previability abortion," the lawsuit says.

Planned Parenthood argues that the law would impact women who for a variety of reasons decide to end their pregnancies, including it's not the right time in their lives to have a child or that they already have children and decide they cannot add to their families.

Other women choose an abortion to preserve their life, health or safety, or because they receive a diagnosis of a fetal anomaly, according to the lawsuit. Some do so because they have become pregnant as a result of rape or incest or because they choose not to have biological children.

"Legal abortion is one of the safest procedures in contemporary medical practice and is far safer than childbirth," the lawsuit says.

About 9 out of 10 abortions in the U.S. and in Utah take place in the first 12 weeks of pregnancy. Only a small fraction of abortions are performed at or after 18 weeks, the lawsuit says.

The lawsuit names the governor, Attorney General Sean Reyes, Salt Lake County District Attorney Sim Gill, Utah Department of Health Executive Director Joseph Miner and Utah Division of Occupational and Professional Licensing Director Mark Steinagel as defendants.

The governor's office had no response to the lawsuit, citing a policy of not commenting on pending or ongoing litigation. Herbert, who calls himself a "pro-life guy," has said it may be time to re-examine abortion laws because of scientific advancements.

Thirty Utah maternal fetal medicine physicians have signed a statement supporting the legal challenge that warns the law "will lead to preventable medical harm for women and for babies in Utah," possibly putting future pregnancies at risk.

Their statement says doctors "are often unable to fully evaluate a fetus and provide informed counseling for a family prior to 18 weeks gestation," which could lead to women ending a pregnancy "out of fear they will lose this option if they wait beyond 18 weeks."

According to the Associated Press, Mississippi and Kentucky have passed laws that would ban most abortions after a fetal heartbeat is detected — which means as early as six weeks, when many women don't even know they're pregnant.

Georgia could join them if Republican Gov. Brian Kemp signs a measure that has been sent to him, and a bill in Ohio just passed that legislature. Similar bills have been filed in at least seven other states with anti-abortion GOP majorities in their legislatures.

Alabama may go further, the AP reported, with legislation introduced last week to criminalize abortion at any stage unless the mother's health is in jeopardy.