

Planned Parenthood, ACLU announce federal lawsuit aimed at striking down Utah's new 18-week abortion ban

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By Bethany Rodgers

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Two Utah advocacy groups are filing a federal lawsuit against the state seeking to block an 18-week abortion ban they call a “flagrant violation” of Supreme Court precedent.

The Planned Parenthood Association of Utah and the American Civil Liberties Union of Utah [have been legal action since the Utah Legislature](#) passed the abortion measure earlier this year. The organizations news conference at the state Capitol on Wednesday announce they had officially lodged the complaint. “Politicians have no place in the private medical decisions of Utah women,” Karrie Galloway, president and CEO of Utah’s Planned Parenthood, “This unconstitutional ban is clearly part of a broader agenda to ban abortion one law at a time.”

This year, state legislatures across the nation considered more than 260 proposals to restrict abortion, Galloway continued, calling it a “full-on attack” on access to the procedure.

Utah’s ban, which would be among the nation’s strictest, is written to prohibit elective abortions after weeks’ gestation and is slated to take effect May 14.

ACLU and Planned Parenthood seek a court

injunction to stop the state from enforcing the new restrictions while the case is in litigation.

Federal courts have generally struck down attempts to bar abortions before a fetus could survive outside the womb. That point in a pregnancy has shifted with medical advancements that have allowed more premature babies to survive but is generally reached at about 24 weeks.

In the 1990s, Utah tried to ban most abortions performed later than 22 weeks, but a federal judge ruled the law was unconstitutional and overturned it. The complaint challenging that law was also filed by the ACLU and Planned Parenthood.

“We are here today because our Legislature has decided once again to attempt to curb important reproductive rights,” Leah Farrell, senior staff attorney for the ACLU of Utah, said during Wednesday’s news conference. “And once again we are standing up to hold the line and to say, ‘We will see you in court.’”

Planned Parenthood operates one of the state’s two abortion clinics — both located in Salt Lake City — and it is the only one that performs the procedure after 18 weeks, according to the lawsuit.

The prohibition, if upheld, would stop only a small fraction of abortions: There were 2,759 in-state abortions involving Utah residents in 2017, and just 73 of them were for pregnancies past 18 weeks, [according to state health data](#).



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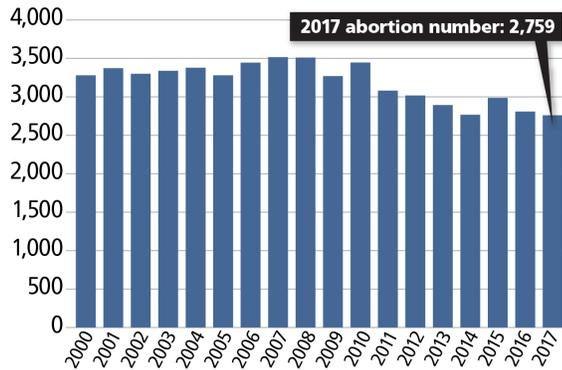
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Abortion continues decadeslong decline in Utah

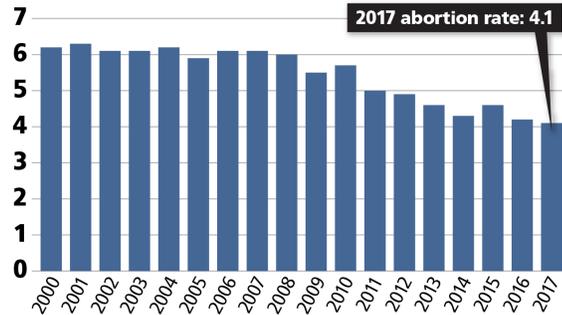
From 2000-2017, the number of abortions in Utah declined by 16 percent at the same time the population of women of childbearing age (15-44) increased 28 percent in the state. Since 1990, the number of abortions has dropped 34 percent as population has increased 71 percent.

Utah abortion numbers 2000-2017



The abortion rate in Utah (the number of abortions per 1,000 women of childbearing age) has steadily declined, dropping by a third since 2000. The rate among teenagers (15-19) has seen the biggest drop, decreasing by nearly one half.

Utah abortion rate 2000-2017*



*Rates are per 1,000 females 15 to 44 years of age
Source: Utah Health Department
GRAPHIC BY CHRISTOPHER CHERRINGTON | The Salt Lake Tribune

But Galloway said fetal test results often are unavailable until after 18 weeks of pregnancy, and the new ban would limit a woman's options in those cases.

A group of 30 Utah maternal fetal medicine physicians released a letter of support Wednesday for the lawsuit, saying the new prohibition will put women at risk by taking away the option of ending a pregnancy after certain severe fetal abnormalities are detected around 19 or 20 weeks. "If women are not allowed the option to end complex pregnancies with a grave fetal prognosis after 18 weeks, we will see some women forced to undergo cesarean delivery in late pregnancy, which will increase maternal risk and the risk to their future children," wrote the doctors, many of whom are specialists within Intermountain Healthcare or affiliated with University of Utah School of Medicine.

The abortion ban contains several exceptions for cases of rape or incest, when the life of the mother is at stake or if the fetus has a severe brain abnormality or lethal defect.

The lawsuit names as defendants Gov. Gary Herbert; Attorney General Sean Reyes; Joseph Miner, executive director of Utah's health department; Sim Gill, district attorney for Salt Lake County; and Mark Steinagel, the director of Utah Division of Occupational and Professional Licensing.

Utah lawmakers predicted that the proposed abortion ban would wind up in court, and its sponsor, Rep. Cheryl Acton, [conceded its defense could cost between \\$1 million and \\$3 million](#) if the state loses. But Acton, a West Jordan Republican, argued the battle was still worth fighting, especially in a state that prides itself on family values.

In a Wednesday interview, she acknowledged that lower courts will probably rule against the state but believes the 18-week law could be upheld on appeal.

"I'm hoping that we have all the elements there to sustain it through a court challenge," Acton said, but we will have to see how it plays out."

Despite decades of legal precedent against pre-viability bans, the recent rightward shift of the Supreme Court bench gives Acton hope. The roughly 46 years since the landmark Roe v. Wade decision have also yielded a greater understanding of what goes on inside the womb and the risks of later-term abortion procedures, she said.

Ultimately, she'd like the Supreme Court to hand control over abortion policy to the states.

Arkansas this year [also approved an 18-week abortion ban](#) that, as in Utah, opponents vow to challenge, The Associated Press reports. Meanwhile, Ohio legislators [have passed a bill to ban abortions](#) once a fetal heartbeat is detected.