

NATION

Supreme Court ruling is likely to change the landscape of 'abortion desert'



Abortion rights activists Morgan Hopkins of Boston, left, and Alison Turkos of New York celebrate on the steps of the U.S. Supreme Court in Washington, D.C., on June 27, 2016. (Pete Marovich / Getty Images)

By **Molly Hennessy-Fiske**

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Texas abortion clinics at risk of being closed by a restrictive state law will remain open and some of those shuttered will probably be able to reopen in the wake of a landmark Supreme Court ruling Monday that could block similar laws in other states across the so-called abortion desert of the South and Midwest.

Opponents of abortion said they plan to defend those laws in the interest of women's health, while shifting to pursue new laws to protect fetal health.

Of 41 abortion clinics in Texas before the law passed, 19 remain. Of those, 10 would have been forced to close had the high court allowed the law to stand.

Advocates expect some clinics to reopen, especially those in rural areas far from other providers. Still, the reopening process could be slowed by licensing, rebuilding and hiring.

“We really have a daunting task ahead of us to determine when and how we can reopen some of our clinics,” said Amy Hagstrom Miller, president of Whole Woman’s Health, which closed two of its half-dozen clinics in Texas after the state law passed. “We have the go-ahead to open clinics, but the process to undertake it is going to take time.”

About half the women in the South live in counties without abortion clinics, as do 53% of women in the Midwest, compared with 38% nationwide, according to the most recent study by the Guttmacher Institute, which advocates for reproductive rights.

Since the Texas law passed, many women without clinics nearby or whose clinics had long waits have [paid to travel](#) to have abortions in neighboring states. Advocates said there’s a pressing need to reopen clinics that serve women in remote western cities such as Lubbock, Midland and San Angelo.

“It’s vital in West Texas and the Panhandle where people are hundreds of miles from care,” said Nan Little Kirkpatrick, executive director of the Dallas-based Texas Equal Access Fund, which helps those who cannot afford abortions. “We are really hoping this decision will reopen providers.”

Abortion rights advocates were also hopeful the ruling would help permanently block similar laws temporarily suspended by the courts in other states.

In addition to Texas, five other states have enacted laws that require abortion clinics to meet ambulatory surgical center requirements. They are Michigan, Missouri, Pennsylvania, Virginia and Tennessee, where the law was temporarily blocked by a judge, according to the New York-based Center for Reproductive Rights, which represented Whole Woman’s Health.

Besides Texas, the group found nine other states passed laws that require abortion providers to have admitting privileges at local hospitals: Alabama, Kansas, Louisiana, Missouri, Mississippi, North Dakota, Oklahoma, Tennessee and Wisconsin. Those laws were blocked by the courts in all but Missouri, North Dakota and Tennessee.

“Both here in Kansas and in Oklahoma, this case really opens up the door for a relaxation of these laws that are punitive towards physicians who provide abortion care and the clinics where the physicians practice,” said Julie Burkhart, founder and chief executive of Trust Women, which runs an abortion clinic in Wichita, Kansas, and is opening one in Oklahoma City next month.

“The next few days and weeks, I think we’ll be better able to determine what will be taking place in

these states,” she said.

In Louisiana, a state admitting-privileges law was stayed by the U.S. Supreme Court this year, allowing two of the state’s four clinics to go back to work.

“Our next step will be to decide what we need to do to have it permanently enjoined,” said Kathaleen Pittman, administrator at Hope Medical Group for Women in Shreveport.

Mississippi also passed an admitting-privileges law that was stayed by the courts and is expected to be permanently blocked in coming days because of the high court’s ruling, the first in decades to clarify the standard set by another Texas case, *Roe vs. Wade*.

“It’s a definitive ruling. It doesn’t leave any wiggle room for people who have sought to abuse regulatory authority and gut the provisions of *Roe*,” said Dr. Willie Parker, who staffs the state’s sole abortion clinic, in Jackson.

Parker said the high court’s ruling will not only lead lower courts to block these laws. “It also can serve as a deterrent to people who are trying to draft this kind of legislation,” he said.

Abortion opponents said they were searching for ways to defend laws similar to the Texas measure. They also plan to shift their focus to laws that restrict access to abortion based on fetal health, they said, such as 20-week abortion bans based on fetal pain, or bans on second-trimester abortions they call “fetal dismemberment.”

“The direction the pro-life movement needs to go is using that state interest in fetal life,” said John Seago, legislative director for Houston-based Texas Right to Life, adding that it will also “have to be more defensive, since the window has been opened for challenges to health and safety laws.”

Already, 14 states have passed fetal pain bans on abortion at 20 weeks, said Carol Tobias, president of the Washington, D.C.-based National Right to Life Committee. Texas is among states that have passed the laws, and the 20-week ban was not at issue in the case before the Supreme Court, Tobias noted.

“The abortion industry didn’t challenge that part of the law. So we are going to be encouraging more states to pass that law,” she said.

Her group also plans to lobby for the “fetal dismemberment” laws that have passed in half a dozen states – Alabama, Kansas, Louisiana, Mississippi, Oklahoma and West Virginia.

Although legislators in some states have pursued outright bans on abortion, including one passed in Oklahoma last month and vetoed by the governor, Tobias said Monday's ruling shows that's the wrong approach.

"With the current court, it would be futile. The court is more likely to take baby steps," she said. "Little steps are more likely to chip away at Roe."

Abortion opponents in Texas agreed.

"The reason we don't recommend that state legislatures pass complete bans on abortion at this time is the Supreme Court will very quickly strike them down and the states end up paying attorneys' fees to Planned Parenthood and other abortion providers," said Joe Pojman, executive director of the Texas Alliance for Life. "We have to wait until the time is right."

He called the Supreme Court ruling "a very serious setback" but said it probably will galvanize those who oppose abortion.

"Long term, this is going to help our movement continue to grow," Pojman said.

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