

Supreme Court: Texas Law Too Restrictive

On the final day of its 2016 term, the U.S. Supreme Court announced it had reversed a Texas pro-life law that had single-handedly closed 80 percent of that state's abortion clinics.

Texas House Bill 2 restricted abortion to the first 20 weeks of pregnancy, required abortionists to have admitting privileges at a hospital within 30 miles of their offices and required abortion facilities to meet the same health standards as other ambulatory surgical centers. The language of the Texas law had been approved by more than 30 medical societies, including the American College of Surgeons and the American Medical Association as a matter of "public safety."

"HB2 was an effort to improve minimum safety standards and ensure capable care for Texas women," Texas Attorney General Ken Paxton said in a statement following the court's announcement. "It's exceedingly unfortunate that the court has taken the ability to protect women's health out of the hands of Texas citizens and their duly-elected representatives."

The high court, in a 5-3 decision, determined that was too restrictive to women's right to abortion.

"We conclude that neither of these provisions offers medical benefits sufficient to justify the burdens upon access that each imposes," Associate Justice Stephen Breyer wrote in the majority opinion. "Each places a substantial obstacle in the path of women seeking a pre-viability abortion, each constitutes an undue burden on abortion access, and each violates the federal Constitution."

In a concurring opinion, Associate Justice Ruth Bader Ginsburg wrote "complications from an abortion are both rare and rarely

dangerous.” According to the Justice Foundation in Texas, an average of 10 women per week are taken to emergency rooms in Texas due to botched abortions, and nearly half of them are hospitalized for extended periods, as a result.

In the dissenting opinion, Associate Justice Samuel Alito—with concurrence from Associate Justice Clarence Thomas and Chief Justice John Roberts—wrote the law should have been upheld in its entirety. He wrote, “This decision exemplifies the Court’s troubling tendency to bend the rules when any effort to limit abortion, or even to speak in opposition to abortion, is at issue.”

Thomas and Roberts had sought to remand the case back to the Fifth Circuit because the court was still short a justice following the death of Associate Justice Antonin Scalia. But even with the stridently pro-life jurist’s vote, HB 2 would have been reversed.

The Fifth Circuit Court of Appeals had previously upheld the law in the case *Whole Woman’s Health v. Cole*, which has since been renamed *Whole Woman’s Health v. Hellerstedt*. The state had been sued by a number of independent abortion clinics, including Whole Woman’s Health, and were represented by the Center for Reproductive Rights.

“Every day Whole Woman’s Health treats our patients with compassion, respect and dignity—and today the Supreme Court did the same,” Whole Woman’s Health CEO Amy Hagstrom Miller said. “We’re thrilled that today justice was served and our clinics stay open.”

As a result of HB 2, the number of abortion clinics in the state quickly dropped from 41 to eight, according to Planned Parenthood.

“This fight isn’t over: The next president has to protect women’s health,” Democratic presidential nominee-in-waiting Hillary Clinton wrote on Twitter following the court’s

announcement. "Women won't be 'punished' for exercising their basic rights," she said, a dig at presumptive Republican presidential nominee Donald Trump, who once suggested women who get illegal abortions should face "some sort of punishment."

The Supreme Court's decision is expected to have a trickle-down effect on other similar efforts at the state level to regulate abortion with targeted restrictions.