

Ohio Politics

# Federal judge blocks Ohio from using coronavirus health order to restrict abortions

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A federal judge has blocked Ohio from using a coronavirus public-health order to restrict abortions. (Gus Chain, Plain Dealer file photo)

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By [Andrew J. Tobias, cleveland.com](#)

COLUMBUS, Ohio -- A federal judge has temporarily banned Ohio officials from using a public-health order forbidding nonessential surgeries during the coronavirus pandemic to restrict providers from performing abortions within the state.

The ruling, issued Monday evening by Senior U.S. District Judge Michael Barrett in Cincinnati, came just hours after Planned Parenthood, Preterm Cleveland and other providers had requested the court to intervene.

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The judge's order will last for 14 days, unless he changes it. Barrett indicated he is considering whether to issue another ruling, called a preliminary injunction, that would continue to bar the state from restricting such abortions while the clinics pursue legal claims on the subject.

Attorney General Dave Yost, a Republican, on March 21 sent letters to two abortion clinics citing the order, telling them to "immediately stop performing non-essential and elective surgical abortions." Gov. Mike DeWine, a Republican, has said providers shouldn't perform abortions while the order is in effect when the woman's life is not at risk.

But Barrett wrote Monday that decision is up to the woman's doctor. He also wrote: "The law is well-settled that women possess a fundamental constitutional right of access to abortions."

"If a healthcare provider determines, on a case-by-case basis, that the surgical procedure is medically indicated and cannot be delayed, based on the timing of pre-viability or other medical conditions, said procedure is deemed legally essential to preserve a woman's right to constitutionally protected access to abortions," Barrett wrote in his eight-page ruling.

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In a statement, Chrissy France, the executive director of Preterm said: “A global pandemic is no time to be playing politics with healthcare, and we are relieved that the District Court has acknowledged that abortion is an essential and time-sensitive health care service.”

“Everyone deserves to have access to safe, timely care and a delay of only a few weeks can make abortion completely inaccessible,” France said. “Preterm remains committed to doing everything we can to keep our patients healthy and safe, ensuring they have access to the healthcare they need when they need it.”

Yost said in a statement that the public-health order’s sole purpose was to save lives by helping make sure protective equipment is available for health-care workers and others on the front lines of the COVID-19 response.

“After consultation with the experts at the Ohio Department of Health, the state of Ohio will take the course of action that will most quickly achieve that goal — be it an emergency appeal, a trial on the preliminary injunction, a more specifically drawn order, or other remedy,” Yost said.

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The ruling was made as part of an ongoing federal lawsuit in which the abortion providers have sought to overturn the state’s “heartbeat” abortion law that outlaws abortions after a fetal heartbeat is detected, which can be as soon as six weeks after conception, before many women know they’re pregnant. Barrett in July blocked the bill from taking effect while the lawsuit is pending.

Also on Monday, Republican attorneys general in 15 states, including the neighboring states of Indiana, Kentucky and West Virginia, filed a “friend of the court” brief arguing in favor of Ohio’s ability to restrict abortion clinics during the COVID-19 crisis.

To print the document, click the "Original Document" link to open the original PDF. At this time it is not possible to print the document with annotations.

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