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Oklahoma judge partially strikes down Stitt's abortion ban

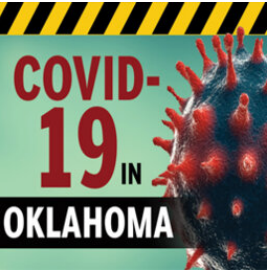
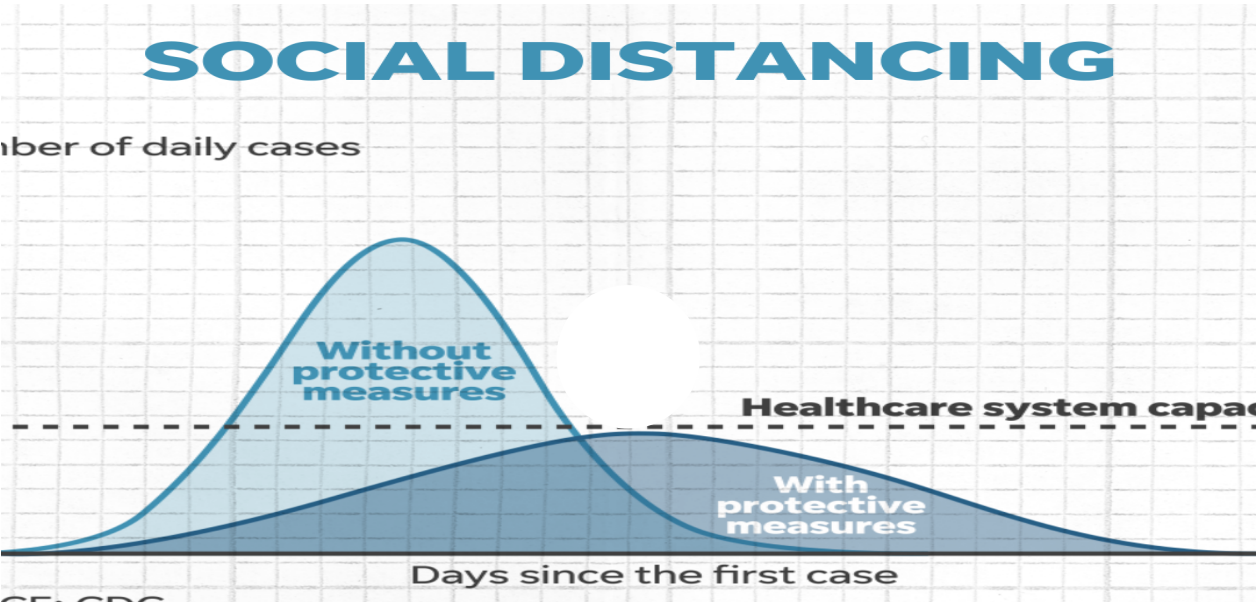


by [CARMEN FORMAN](#)

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An Oklahoma judge on Monday struck down part of Gov. Kevin Stitt's temporary, coronavirus-related abortion ban.

In an order, Federal Judge Charles Goodwin said the state is not allowed to effectively deny women access to an abortion during the COVID-19 health crisis.

"While the current public health emergency allows the State of Oklahoma to impose some of the cited measures delaying abortion procedures, it has acted in an 'unreasonable,' 'arbitrary,' and 'oppressive' way—and imposed an 'undue burden' on abortion access — in imposing requirements that effectively deny a right of access to abortion," Goodwin wrote.

Oklahoma Attorney General Mike Hunter said he plans to immediately appeal the ruling with the 10th U.S. Circuit Court of Appeals.

Goodwin granted, in part, a request for a temporary restraining order sought by the Center for Reproductive Rights and other abortion rights groups that sued Stitt for classifying abortions as elective procedures during the COVID-19 crisis.

On March 27, Stitt [announced abortions were included](#) in his temporary suspension of elective surgeries and minor medical procedures. Stitt cited rising demands for hospital beds and a shortage of personal protective equipment as reasoning for the suspension of surgeries.

Goodwin's order stops the state from enforcing a temporary ban on medication abortions, in which a woman early in her pregnancy can take a series of two pills to terminate her pregnancy.

The state is not advancing its goals of limiting use of personal protective equipment, freeing up hospital beds and reducing interpersonal contact by prohibiting medication abortions, Goodwin wrote. More women will likely seek surgical abortions if medication abortions are disallowed, he wrote.

The order also stops the state from enforcing a ban on surgical abortions in some cases. The prohibition on surgical abortions cannot be enforced for women who are currently eligible to seek an abortion, but would not lawfully be able to seek an abortion after Stitt's executive order expires at the end of April 30.

Hunter said he's disappointed in the court's decision to override Oklahoma's response the to COVID-19 crisis.

"Carving out abortion from the state’s comprehensive efforts to flatten the curve creates a horrible precedent that may encourage a flood of other judicially conjured exceptions, completely undermining the state’s ability to combat the worst public health crisis in Oklahoma history," he said. "We all are making adjustments to help save thousands of lives — abortion providers should be no different. The state is not required to prioritize ending human life in utero over saving human lives, and certainly nothing in the Constitution says so.”

Oklahoma prohibits abortions after 20 weeks, except in extreme cases. Stitt's abortion ban allowed exceptions for abortions deemed medically necessary or "necessary to prevent serious health risks to the unborn child's mother."

Goodwin's ruling essentially says that women who are nearing that 20-week mark should be allowed to seek an abortion at this time.

Goodwin gave the example of a woman who was 16 weeks pregnant on March 24 — when Stitt issued his moratorium on elective surgeries. At that point, she would be unable to obtain an abortion in Oklahoma, which would be a “plain, palpable invasion of rights," he wrote.



"Giving deference to the state executive as the primary arbiter of what steps are necessary in that area to stop the spread of COVID-19, and to ration resources needed to treat patients infected with that virus, the Court concludes that this type of temporary delay is a permissible use of state power in a health emergency," Goodwin wrote.


Center for Reproductive Rights President and CEO Nancy Northup cheered the judge's ruling.

“The court has stopped Governor Stitt from exploiting this devastating pandemic as a weapon in his battle to ban abortion,” she said. “Abortion is time-sensitive, essential healthcare. Women in Oklahoma are again able, for the time being, to access abortion care in their state at a time when travel is even more challenging.”

Julie Burkhart, the founder and CEO of Trust Women, said its Oklahoma City abortion clinic will immediately resume business as usual.

Goodwin's temporary restraining order is in effect through 11:59 p.m. on April 20.

It's not clear what will happen if, as many expect, Stitt's executive order prohibiting elective surgeries is extended into May.



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Carmen Forman covers the state Capitol and governor's office for The Oklahoman. A Norman native and graduate of the University of Oklahoma, she previously covered state politics in Virginia and Arizona before returning to Oklahoma.

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