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## TEXAS

# Some abortions may proceed in Texas during the coronavirus pandemic, federal judge rules

Emma Platoff / Texas Tribune

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In a second rebuke to Texas GOP officials who have said a ban on nearly all abortions is essential as the state battles the novel coronavirus, a federal judge in Austin ruled Thursday that some abortions may proceed.

U.S. District Judge Lee Yeakel narrowed Texas' prohibition to allow certain abortions to proceed while a gubernatorial emergency order barring medical procedures that are not "immediately medically necessary" still stands. The ruling will allow Texas abortion providers to proceed with medication abortions — which involve patients ingesting pills and do not consume scarce medical protective equipment — as well as procedural abortions for patients who risk meeting the state's gestational age cutoff for abortions before Gov. [Greg Abbott](#)'s emergency order is lifted.

Hundreds of abortions have already been [canceled](#) after Texas Attorney General [Ken Paxton](#) — citing the March 22 executive order from Abbott — declared last month that all abortions not critical for the life or health of the patient were prohibited. State officials said the prohibition was critical to preserve medical resources, like masks and gloves, as hospitals gear up for an onslaught of patients with COVID-19.

Abortion providers quickly sued, calling the order political opportunism and arguing before the courts that abortions rarely require hospital time and typically do not involve extensive personal protective equipment.

After a loss earlier this week at the U.S. 5th Circuit Court of Appeals — which [allowed](#) the ban in a ruling that said the government may restrict constitutional rights during an emergency — abortion providers returned to federal court in Austin with the narrower ask to allow medication and some procedural abortions.

Abbott's emergency order is set to expire later this month, but it may be extended as the state prepares for a peak in coronavirus cases that may not come for weeks. In Texas, abortions are prohibited starting 22 weeks after a patient's last menstrual period — meaning even if Abbott's order lifts in April, patients who wait might not have the opportunity to obtain a legal abortion in Texas at all.

U.S. 5th Circuit Judge Kyle Duncan had said the order was best understood not as an "absolute ban" but as a "temporary postponement" in line with delays for many medical procedures, like colonoscopies. But Yeakel argued that because abortions, unlike colonoscopies, are time-limited, "to women in these categories, the executive order is an absolute ban on abortion."

The case over whether Texans may terminate their pregnancies during the pandemic has pingponged back and forth in the federal courts, with a federal appeals court handing a [major, if early, victory to the state](#) earlier this week. This most recent decision from a lower court marks an important victory for abortion providers, who have argued the care they provide is just as important and time-sensitive now as it was before the outbreak.

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"This is a temporary sigh of relief for at least some Texas patients," said Alexis McGill Johnson, acting president and CEO of Planned Parenthood Federation of America. "We know that abortion is essential because it is time-sensitive care that cannot wait."


Paxton, meanwhile, said Thursday evening he would ask the appeals court to again review Yeakel's decision, which he said "demonstrates a lack of respect for the rule of law."

*Disclosure: Planned Parenthood has been a financial supporter of The Texas Tribune, a nonprofit, nonpartisan news organization that is funded in part by donations from members, foundations and corporate sponsors. Financial supporters play no role in the Tribune's journalism. Find a complete list of them [here](#).*

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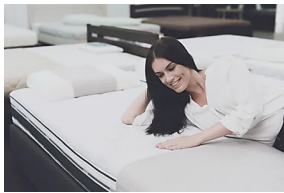
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