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## Abortion providers are apocalyptic over U.S. Supreme Court ruling: "This is a dark day"



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By KAREN BROOKS HARPER

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**(TEXAS TRIBUNE)** - Abortion providers and activists bashed the U.S. Supreme Court's decision to leave Texas' new abortion law in place, arguing the high court's ruling failed to dismantle the Lone Star State's novel enforcement method that has citizens file lawsuits against physicians and clinics suspected of violating the new law.

"This is a dark day for abortion patients and for physicians and providers," said Marc Hearron, senior counsel for the Center for Reproductive Rights. "It is also a dark day for anyone who cares about constitutional rights."

On Friday, the U.S. Supreme Court issued a decision that kept a new law restricting abortion to about the first six weeks of a patient's pregnancy but ruled abortion providers could continue their legal challenge of the law.

While the Texas law is about abortion, the fact the majority opinion did not shut down how the law is enforced — via lawsuits filed by private citizens against abortion providers — was one of the most troubling aspects of the court's decision, Hearron said.

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"If a state can prohibit the exercise of any constitutional right that's disfavored in that state and get around federal court review by allowing private citizens to sue someone for exercising that constitutional right, then it's hard to say where this scheme ends. Today's decision is a marker that says every constitutional right is now at risk."

Amy Hagstrom Miller, president and CEO of Whole Woman's Health, which operates several clinics in Texas and is the chief plaintiff in case before the Supreme Court, said the decision presents even more problems for clinics. "This does not feel like a green light, and the risks for clinic staff and physicians remain great," she said.

Julia Kaye, staff attorney for the Reproductive Freedom Project at the American Civil Liberties Union, calling the decision "shameful." She said the decision ignored 50 years of legal precedent and empowered states who have enacted more than 100 restrictions on abortion across the country just this year.

"There was no reason for the Supreme Court to accept this case at all, if not to undermine Roe," Kaye said, referring to the landmark 1973 case, *Roe v. Wade*, which legalized abortion.

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For now, officials at Whole Woman's Health say they will continue to abide by the Texas law that now bars abortions once an embryo's [cardiac activity](#) is detected — at about the six-week mark in a pregnancy — because the law has not actually been blocked in the courts.

For now, providers said, the battle continues.

"Our fight against this law is not over, and Whole Woman's Health is here for the long haul," Hagstrom Miller said. "We hope this law is blocked quickly so we can resume the full scope of abortion care we are trained to provide."

If the court does eventually strike down the law, medical providers can go back to performing abortions up to the 20th week of pregnancy.

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But the law, providers say, [has already had a chilling effect](#) on staff who want job stability, on patients who remain unclear what their rights are and on the funding and longevity of the clinics themselves.

"While I'm glad that we are able to move forward with the suit, the [Supreme Court] ruling today does very little for Texans who are pregnant today," said Dr. Stephanie Mischell, a Texas family medicine physician. "We are practicing in the same reality of the past 100 days: Patients must access abortion within an incredibly narrow window or be forced to continue an unwanted pregnancy."

When Texas imposed the most restrictive abortion law in the nation in September, doctors and clinics were forced to move quickly to get their patients to out-of-state providers as they waited to see if the law would pass constitutional muster at the nation's highest court.

"It's going to take a long time for Texas to rebuild," Hagstrom Miller said. "And this is the damage that is intended from this law."

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Prolonging the uncertainty is the fact that the decision could mean little in the long term depending on how the Supreme Court rules on a [Mississippi law](#), a decision that could result in an overturning of *Roe v. Wade*.

When Gov. [Greg Abbott](#) signed into law what was then known as Senate Bill 8 on Sept. 1, it became illegal to perform abortions when the fetus is showing cardiac activity, around six weeks into a pregnancy.

But the law came with a unique enforcement feature. It relies not on the government to enforce the legal restrictions, but citizen lawsuits against providers and anyone who helps someone access an abortion. As a result, physicians and clinics now face costly legal battles if anyone believes they have violated the restrictions and performed an abortion beyond that period of about six weeks.

Many physicians have already dropped out of abortion care networks, providers say, or reduced the level of care they can give desperate patients because of the threat posed by these lawsuits.

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Also, abortion providers have seen a significant drop in the number of women they are able to serve under the new restrictions, and there are fewer calls for those services as well.

Patient numbers for the four Whole Woman’s Health clinics in Texas have dropped by about two-thirds since the restrictions were put in place, Hagstrom Miller said.

Texas has fewer than two dozen abortion clinics, but there are individual providers who perform them at other types of medical facilities or at private practices. All of them are affected by the new law.

“I hope that this ruling and the state ruling from yesterday mean that the courts are recognizing the harms of this law and more good news will come as we continue this fight,” Mischell said. “But given the harm of being denied the legal right to abortion, people need and deserve more immediate relief.”

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