

FACT SHEET

A Federal Twenty-Week Abortion Ban Would Unconstitutionally Interfere with Women's Health

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The House of Representatives will soon consider H.R. 1797, introduced by Representative Trent Franks (R-AZ), which would ban abortions at twenty weeks post-fertilization. The bill is extremely dangerous because it threatens women's health and lives, and ignores women's individual – sometimes dire – circumstances, including when they are pregnant due to rape or incest. This ban is a direct attack on the constitutional right to abortion established in Roe v. Wade. Decisions about adoption, when to end a pregnancy, or when to raise a child are best left to a woman to make with her family, her doctor, and other trusted individuals. The Federal Twenty-Week Abortion Ban would deny women across the country the right to make such an extremely personal medical decision and instead allow politicians to make that decision.

The Federal Twenty-Week Abortion Ban Ignores A Woman's Individual Circumstances and Her Health

This bill bans abortions even in cases where a woman is pregnant due to rape or incest, when there is a severe fetal anomaly, and when her health is at risk. In fact, the bill only allows a narrow exception for an abortion when it is necessary to save a woman's life due to a physical illness. The bill's cruelty becomes obvious by the fact that even a suicidal woman would not qualify for this one very narrow exception. Simply put, this blanket restriction ignores the circumstances a real woman may face when deciding whether or not to continue a pregnancy.

The Federal Twenty-Week Abortion Ban Is Unconstitutional

The bill restricts almost all abortions at twenty weeks post-fertilization, in direct violation of Supreme Court precedence establishing that states cannot ban abortions prior to viability.¹ Just recently, the Ninth Circuit struck down a similar ban passed in Arizona, holding that "[a] woman has a constitutional right to choose

to terminate her pregnancy before the fetus is viable without undue interference by the state."²

Moreover, the Supreme Court has also made it clear that, even after viability, an abortion ban must include an exception to protect a woman's health.³ The Federal Ban's lack of a health exception serves as an additional reason for why the Ban is unconstitutional.

The Federal Twenty-Week Abortion Ban Would Impose Severe Criminal Penalties on Physicians

Physicians who provide an abortion in violation of the ban would face up to five years of imprisonment or pay a heavy fine (or both). Notably, Rep. Franks' Manager's Amendment increased the penalty from two to five years, a particularly harsh fine when considering it penalizes a physician for just providing his or her patient the medical care the patient requested. Moreover, as it is difficult to know exactly how far along a woman is in her pregnancy, providers may refuse to provide abortion care weeks before even the banned twenty weeks for fear of prosecution. Women's healthcare must not be compromise just because politicians think that they are better doctors than the doctors themselves.

1 See, e.g., *Planned Parenthood of S.E. Pa. v. Casey*, 505 U.S. 833, 846 (1992).

2 *Isaacson v. Horne*, No. 2:12-cv-01501-JAT, slip op. at 16 (9th Cir. May 21, 2013).

3 *Roe v. Wade*, 410 U.S. 113, 164–65 (1973).