NATIONAL WOMEN'S LAW CENTER
EXPANDING THE POSSIBILITIES

FACT SHEET

H.R. 36, A Nationwide Abortion Ban, Would Allow Politicians, Not Women or Medical Experts, to Decide Women's Personal Medical Decisions

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H.R. 36, introduced by Representatives Trent Franks (R-AZ) and Marsha Blackburn (R-TN), is a nationwide ban on later abortions that would apply in every state across the country. It is an unconstitutional attempt to take away from women, their health care providers, and their families an extremely personal, medical decision. H.R. 36 callously makes it harder for women who are already facing difficult circumstances and threatens women's health and lives.

H.R. 36 Would Deprive Women the Ability to Make An Extremely Personal Medical Decision

- H.R. 36 would prevent women across the country from receiving an abortion at 20 weeks of pregnancy, coldly indifferent to the many reasons why a woman may need an abortion later in pregnancy.
- Each situation is different. Politicians should not deny a woman the ability to make her own decisions in consultation with those she trusts the most.

H.R. 36 Interferes with the Patient-Provider Relationship

- H.R. 36 would turn health care providers into criminals, threatening them with a prison sentence of up to five years for providing the care their patients need.
- The American College of Obstetricians and Gynecologists, the nation's leading association of medical experts on women's health, has come out in strong opposition to twenty week bans.

H.R. 36 Is Unconstitutional

- H.R. 36 bans almost all abortions at twenty weeks which is in direct violation of the U.S. Constitution.[1]
- Three courts, including one federal appellate court, have already struck down similar state bans as unconstitutional.[2]
- H.R. 36's lack of a health exception also violates the U.S. Constitution. The Supreme Court has made clear that, even after viability, any prohibition on abortion must include an exception for circumstances when abortion "is necessary, in appropriate medical judgment, for the preservation of the life or health" of the woman.[3]

H.R. 36's Life Exception Is Overly Narrow and Puts Insurmountable Obstacles in the Path of Health Care Providers

- While H.R. 36 includes an exception for when a woman's life is at risk, it is so unacceptably narrow and puts so many obstacles in the path of health care providers that it is meaningless.

- Even when a woman's life is at risk, H.R. 36 forces providers to "wait and see" whether the patient really would die or suffer "substantial and irreversible physical impairment of a major bodily function" before performing an abortion. This puts providers in a dangerous and untenable position.
- The exception also fails to acknowledge all life-threatening situations by expressly excluding mental illness, meaning that a woman who is suicidal due to a mental illness could be denied an abortion that could save her life.

H.R. 36's Rape and Incest Exception Cruelly Leaves Out Certain Categories of Sexual Assault Survivors

- H.R. 36 limits the rape and incest exception to those survivors who are able and willing to report what happened to them. Many women who experience a sexual assault do not want to report it for varied reasons including concerns about privacy, fear of reprisal, and police bias. Indeed, according to a recent report, only 35 percent of women who are raped or sexually assaulted reported the assault to police.[4] Forcing a survivor to report her sexual assault before she can terminate a pregnancy resulting from rape or incest denies her control at a critical time and could further traumatize her.
- H.R. 36 only exempts a survivor of incest if she is a minor. This further undermines the exception and denies an abortion to adult women pregnant as a result of incest.

A woman's health, not politics, should drive important medical decisions. H.R. 36 is an unconstitutional attempt to impose a nationwide ban on later abortion. It ignores a woman's individual circumstances, threatens her health, and takes an extremely personal medical decision away from a woman and her health care provider.

1. *See, e.g., Planned Parenthood of S.E. Pa. v. Casey*, 505 U.S. 833, 879 (1992) "[A] State may not prohibit any woman from making the ultimate decision to terminate her pregnancy before viability.
2. *See, e.g., Paul A. Isaacson, M.D. et al. v. Tom Horne, Attorney General of Arizona, et al.* 716 F.3d 1213 (2013) (Arizona law); *McCormack v. Hiedeman*, 900 F. Supp. 2d 1128 (D. Idaho 2013) (Idaho law); *Lathrop, et al. v. Deal, et al*., No. CV224423, (Sup. Ct. of Fulton Cnty., Ga., Dec. 21, 2012) (Georgia law). The U.S. Supreme Court recently refused to hear an appeal of the Arizona case, leaving in effect the ruling from the appellate court striking down the law as unconstitutional.
3. *Roe v. Wade*, 410 U.S. 113, 165 (1973), see also *Casey*, 505 U.S. at 879
4. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, NCJ 240655, Female Victims of Sexual Violence, 1994-2010. (March 2013)