

## 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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*This week, the House of Representatives will vote on a revised version of H.R. 36, a nationwide ban on later abortions that would apply in every state across the country. H.R. 36 is an unconstitutional attempt to take away from women, their health care providers, and their families an extremely personal, medical decision. The bill 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, ignoring 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 Congress 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.
- The revised version of H.R. 36 includes new requirements that mandate providers to use an "informed consent" form that goes against established medical practice, thereby injecting politics into the patient-provider relationship. Politicians are not medical experts and this is not an area where politicians should be meddling.

### H.R. 36 Is Unconstitutional

- H.R. 36 bans almost all abortions at twenty weeks in direct violation of the U.S. Constitution.<sup>1</sup>
- Each time a similar ban on abortion has been challenged in court, it has been blocked.<sup>2</sup>
- 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.<sup>3</sup>

## 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 Revised Rape and Incest Exception Continues to Cruelly Ignore the Experiences of Sexual Assault Survivors

- This latest version of H.R. 36 once again ignores the experience of a sexual assault survivor by imposing requirements that would deny her control at a critical time and force her to take actions she might not be ready or able to take, which could lead to further trauma and unnecessary risks.
- Instead of forcing all rape survivors to report the crime, the revised H.R. 36 now forces adult rape survivors either to report the crime or to seek medical care or counseling at least 48 hours prior to getting an abortion. To comply with this requirement, not only does a woman have to see a provider other than the one providing the abortion, but she cannot see any provider in the same facility where abortions are performed (unless it is a hospital). This option is as burdensome and as difficult as reporting the crime. Depending on the availability of medical care in the area where a woman lives, it may also be impossible for some women to meet.
- H.R. 36 only exempts a survivor of incest if she is a minor. Moreover, it only exempts minor survivors of rape and incest if they report the crime to law enforcement or a government agency. This further undermines the exception and denies an abortion to adult women pregnant as a result of incest.
- Moreover, the bill also requires that rape and incest survivors provide documentation that they met the medical or counseling care or reporting requirements before they can get an abortion, again underscoring the bill authors' lack of trust in the women seeking such care.

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 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.