

Local Abortion Bans are Unconstitutional

Access to Abortion is a Fundamental Right

Local abortion bans are unconstitutional. The Supreme Court ruled in *Roe v. Wade*, 410 U.S. 113 (1973), that access to abortion is a fundamental right guaranteed by the United States Constitution. It clarified in *Planned Parenthood v. Casey*, 505 U.S. 833 (1992), that until the point when a fetus can survive outside the womb, or viability, every person has a constitutional right to access abortion care without undue interference from the government—whether federal, state, or local government. Even after viability, governments cannot pass restrictions on abortion that do not have exceptions for the situation where someone’s life or health is in danger. Local abortion bans impermissibly interfere with our recognized constitutional rights.

Targeting Abortion Providers Violates Multiple Constitutional Rights

In addition to implicating the fundamental right to abortion, local ordinances that target abortion providers for performing important constitutional work can violate other rights. The rights of free speech and free association are enjoyed by each person who lives in the United States. As the Supreme Court has stated, “long understood as implicit in the right to engage in activities protected by the First Amendment [is] a corresponding right to associate with others in pursuit of a wide variety of political, social, economic, educational, religious, and cultural ends.” *Roberts v US Jaycees*, 468 U.S. 609, 622 (1984).

Unconstitutional Abortion Laws Open Cities up to Costly Legal Liability

In addition to being unconstitutional, local abortion bans can open cities up to costly legal liability. In the last year, the ACLU has filed lawsuits in Alabama, Arkansas, Georgia, Kentucky, and Ohio challenging unconstitutional abortion bans. This type of litigation can be immensely costly. Restrictions on abortion passed in 2013—declared unconstitutional in *Whole Woman’s Health v. Hellerstedt*, 136 S. Ct. 2292 (2016)—cost the state of Texas more than one million dollars.¹

¹ Alexa Ura, *Abortion Legal Fight Cost Texas More Than \$1 Million*, THE TEXAS TRIBUNE (June 29, 2016) <https://www.texastribune.org/2016/06/29/abortion-legal-fight-cost-texas-more-1-million/>.