

League of Women Voters opposes unconstitutional abortion procedures ban

Partial-birth abortion bans

Unconstitutional intrusion into medicine

LAST YEAR, the Rhode Island General Assembly passed, and Governor Almond signed, a so-called "partial birth abortion" ban. In his signature message, Governor Almond said he expected this particular ban "to survive ultimate constitutional challenge."

Ten days later, a U.S. District Court here issued a temporary restraining order blocking the law from going into effect, recognizing the probable unconstitutionality of it. That same month, a federal judge in Michigan permanently enjoined its "partial-birth abortion" ban. In a matter of months, the "partial-birth" ban has been blocked in at least 10 states, including Rhode Island.

Given the statute's flagrant constitutional problems that were repeatedly affirmed before the General Assembly by legal scholars, and that the Rhode Island Department of Health vital statistics confirmed that *there are no abortions performed in Rhode Island in the third trimester of pregnancy*, this should have been the end of it. Yet, four bills banning "partial birth abortion" are back before us in Rhode Island.

We should not be confused as to the real reasons for the "partial birth abortion" push: This disingenuous campaign was designed by abortion foes for one reason and one reason only — to create a political climate that erodes access to abortion in Rhode Island.

This abortion-procedures ban is a classic case of putting government where it doesn't belong, for the consequences of this extreme law are very real and very dangerous: The courts around the nation are hearing the evidence and stopping the law in its tracks.

Although proponents of the law assert that it is targeted at "late-term" abortions, the law as worded is not limited to post-viability abortions. Well-respected medical experts have testified in several federal court cases that the "partial birth abortion" ban is so broad

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that it could ban virtually every safe method of abortion used after the first trimester of pregnancy.

The fact is that the vast majority of abortions in Rhode Island take place in the first trimester of pregnancy. The reasons that women seek second-trimester abortions are varied: Some women have medical conditions that arise or worsen after the first trimester; others are delayed by the struggle to save money to pay for the procedure; and still others learn of fatal or severe abnormalities from test results that often aren't available until the second trimester.

All of these abortions are threatened under the statute passed by the General Assembly last year.

The law fails to define the procedure it seeks to ban in any recognizable medical terms, yet puts physicians at risk of becoming felons for performing it. It fails to include an exception for the health of the pregnant woman, decided in *Roe v. Wade*, and upheld in *Planned Parenthood of Southeastern Pennsylvania v. Casey*: Regulation of abortion must not interfere with any appropriate medical judgment that abortion is necessary to protect a woman's life or health. It fails to distinguish between viable and nonviable fetuses. And it has broad provisions for civil and criminal prosecution of physicians, including a right for a man to sue if he is the father of the fetus.

Governor Almond and Atty. Gen. Jeffrey Pine are now rethinking their legal strategy, in light of the blatant unconstitutionality of the law. Recently, they requested that the U.S. District Court here postpone the trial scheduled for March on last year's statute, so this General Assembly can pass another "partial birth abortion" ban — presumably, a constitutional one.

The bills' backers already assert that

the procedure under question is more clearly defined. This, in fact, is not the case. Arguments will also be made that the fresh amendments make the statute constitutional. They are wrong. The amendments do nothing to make the statute constitutional, and, in fact, federal courts in Nebraska and New Jersey have already found them to be constitutionally unacceptable.

In short, the list of states that have enjoined the nonmedical language, that have declared this bill a burden to women seeking some of the most common and safest methods of abortion after the first trimester, continues to grow.

The search by anti-abortion elected officials to find the right language to ban a particular method of abortion is misguided, and will be a fruitless one — here in Rhode Island and in every state. The American College of Obstetricians and Gynecologists remains opposed to any and every "partial birth abortion" ban. That's because it's presumptuous for politicians to try to define accepted medical procedures. If an abortion procedure turns out to be "bad medicine," mechanisms to regulate it are already in place: peer review, state medical board licensing decisions, and the medical malpractice system.

Let's see anti-abortion legislation for what it really is, and consider the very real consequences for women's health and lives. Let's focus on the proper role of government, and stop these dangerous and expensive government forays into medical decisionmaking.

There are ways to help pregnant women prevent later-term abortions from occurring, but it is not through passing laws intended to intimidate physicians and to take away women's necessary health options. It is through progressive policies that promote birth control and education. It is through removing barriers to early abortion, such as mandatory delays for services, and the prohibition on public funding for low-income women.

If there is ever a time when abortion does need to be further regulated in Rhode Island, let's rely on evidence from our state health officials, not misinformation from the anti-abortion lobby.

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