



DEPARTMENT OF THE ATTORNEY GENERAL

DAVID Y. IGE
GOVERNOR

CLARE E. CONNORS
ATTORNEY GENERAL

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Hawaii Attorney General Joins Effort to Ensure Access to Reproductive Healthcare During Coronavirus Pandemic

HONOLULU – Hawaii Attorney General Clare E. Connors today joined a coalition of 19 attorneys general in filing an amicus brief — supporting the plaintiffs in *Planned Parenthood v. Abbott* [[see here](#)], in the U.S. Court of Appeals for the Fifth Circuit — opposing the State of Texas’s directive banning nearly all abortion services in the state, using the coronavirus disease 2019 (COVID-19) public health crisis as an excuse.

“An outright ban on abortion procedures is unconstitutional,” said Attorney General Connors. “We will continue our vigilance and challenge any unlawful restrictions on medical care services.”

On Sunday, March 22, Texas Governor Greg Abbott issued Executive Order GA-09, “postpon[ing] all surgeries and procedures that are not immediately medically necessary” in the State of Texas for at least 30 days. The next day, Texas Attorney General Ken Paxton announced that the executive order banned abortion services unless the life of the mother was in jeopardy. The executive order also states that any health care worker caught defying the order could be fined up to \$1,000 and/or imprisoned in jail for up to 180 days.

Last Wednesday, a lawsuit was filed by the Center for Reproductive Rights, Planned Parenthood Federation of America, and the Lawyering Project in the U.S. District Court for the Western District of Texas, which called on the courts to immediately issue a temporary restraining order blocking the ban.

Earlier this week, District Court Judge Lee Yeakel issued a temporary restraining order that stopped the abortion ban from taking effect, stating, “Regarding a woman’s right to a pre-fetal-viability abortion, the Supreme Court has spoken clearly. There can be no outright ban on such a procedure.” Judge Yeakel continued, “This court will not speculate on whether the Supreme Court included a silent ‘except-in-a-national-

emergency clause’ in its previous writings on the issue. Only the Supreme Court may restrict the breadth of its rulings.”

The very next day — following a request by Texas — the U.S. Court of Appeals for the Fifth Circuit halted the district court’s decision, effectively reinstating the ban on abortions in Texas. According to news reports, women in Texas have already been turned away when seeking an abortion because of the directive.

In the amicus brief — led by New York Attorney General Letitia James — the coalition argues that reproductive health care is an “essential medical service” that should be available to women, despite the ongoing public health emergency and that Texas’s “prohibition blocks the exercise of a woman’s constitutional right to access abortion.” Although Texas claims that its abortion ban is needed to conserve limited personal protective equipment (PPE), “most pre-viability abortions do not use PPE or hospital services, and thus restricting such abortions does not appreciably preserve those resources.”

The coalition goes on to argue, at a time when the entire U.S. population is being asked to limit travel, any restriction on abortions could force “women to seek those services in other States, thereby increasing the potential for transmission of COVID-19 and for burdening petitioners’ hospital facilities and PPE supplies.” Further, the coalition contends that residents of Hawaii and other amici states may currently be in Texas without a way to return home, but they still have a right to time-sensitive reproductive care.

The coalition concludes by arguing that “a public health crisis should not be used as an excuse to deny women ‘an ability to control their reproductive lives,’” and that any ban on abortion — even for a matter of weeks — can end up restricting a woman’s “constitutional right to choose to terminate a pregnancy prior to fetal viability,” especially in states, like Texas, which already have limited timetables in place for electing to have an abortion.

Attorney General Connors joins Attorney General James and the attorneys general of California, Colorado, Connecticut, Delaware, Illinois, Maine, Massachusetts, Minnesota, Nevada, New Mexico, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, Washington, and the District of Columbia in filing today’s amicus brief.

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For more information, contact:

Krishna F. Jayaram
Special Assistant to the Attorney General
(808) 586-1284
Email: atg.pio@hawaii.gov
Web: <http://ag.hawaii.gov>
Twitter: @ATGHlGov