

Supreme Court strikes down abortion restrictions

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WASHINGTON, D.C. — The Supreme Court delivered its most significant ruling on abortion in a generation Monday (June 27), striking down restrictions on Texas clinics and doctors that threatened to make the procedure more difficult for women to access.

The divided court, acting on the last day of a term in which it became shorthanded after the death of Justice Antonin Scalia, ruled five-three that the Texas law's restrictions go beyond the type permitted under the court's 1992 ruling in *Planned Parenthood v. Casey*.

The ruling could have an impact beyond the Lone Star State by prompting legislatures and courts to reconsider other limits on abortion. Legislatures across the nation have imposed some 250 restrictions in the past five years.

Justice Stephen Breyer ruled for the majority that states cannot impose restrictions that pose an undue burden on women seeking abortions. The Texas restrictions, which threatened to close all but nine clinics capable of complying with the tough new standards, would leave the state unable to handle an estimated 65,000 to 70,000 abortions a year.

"We conclude that neither of these provisions offers medical benefits sufficient to justify the burdens upon access that each imposes," Breyer said. "Each places a substantial obstacle in the path of women seeking a pre-viability abortion, each constitutes an undue burden on abortion access ... and each violates the federal Constitution."

Breyer was joined by Justices Anthony Kennedy, Ruth Bader Ginsburg, Sonia Sotomayor, and Elena Kagan. Chief Justice John Roberts and Justices Clarence Thomas and Samuel Alito dissented.

The state had argued that the restrictions—requiring clinics to meet surgical-center operating standards and doctors to have admitting privileges at nearby hospitals—were necessary to protect women’s health. Abortion rights advocates said that by adding delays and distance to the obstacles women face, the medical risks would only rise.

The ruling could have an immediate impact on other cases that had been working their way toward the Supreme Court from Louisiana, Mississippi, Wisconsin, and several more states in which restrictions have been challenged by abortion rights supporters.

Restrictions on abortion imposed by conservative state legislatures range from 24-hour waiting periods and parental notification laws, mostly upheld by lower courts, to bans on abortion after six or 12 weeks, which courts have blocked.

The Texas case loomed large on the high court’s docket this term. It offered the justices their best opportunity in a generation to define more clearly the types of restrictions states can impose under the court’s 1992 ruling.

The Texas law was among the toughest in the nation. About half of the state’s more than 40 clinics already had closed because of the admitting privileges restriction. Critics claimed further reductions under the surgical center restriction would tempt more women to self-induce abortions, undergo risky procedures or carry unwanted pregnancies to term.

While both restrictions had been upheld by the U.S. Court of Appeals for the Fifth Circuit, the Supreme Court blocked enforcement last June while the case was under consideration. By then, however, many clinics had closed and were unable to reopen.

During oral arguments, the court’s four liberal justices left little doubt they would vote to strike down the law. Without Scalia, that meant the court could not issue a five-four decision establishing a national precedent that would allow tougher standards for abortion clinics nationwide.

The justices have maintained a tenuous balancing act when it comes to limiting abortion rights. They have upheld most restrictions, including a federal ban on late-term abortions, while at the same time blocking the most severe consequences of Texas and Louisiana laws that had been upheld by the U.S. Court of Appeals for the

Fifth Circuit.

Had the high court allowed the Texas law to take effect, only ten clinics would have remained to serve more than 5 million women of reproductive age. Nine of the clinics would have been clustered in Houston, Dallas-Fort Worth, Austin, and San Antonio, with one heavily-restricted clinic allowed to stay open near the Mexico border in McAllen. Both clinics in El Paso would have been closed, forcing women to seek abortions in New Mexico.

The case was among the most controversial to reach the court this term. More than 1,000 demonstrators, mostly women, protested outside the court when the case was heard in early March. Among dozens of briefs submitted to the court were several in which women recounted their own abortion experiences—successful lawyers and professionals defending the decisions they made early in life, as well as others who said they came to regret the procedures.

The last major case involving abortion was decided in 2007, when the justices upheld a federal law banning late-term—so-called partial birth—abortions. Kennedy wrote the 5-4 opinion, famously asserting that “some women come to regret their choice to abort the infant life they once created and sustained.”