Local Abortion Bans in Ohio are Unconstitutional

Access to Abortion Care is a Fundamental Right

- Local abortion bans are unconstitutional and impermissibly interfere with long-standing constitutional rights.[1]
  - Generally, until viability, every person has a constitutional right to access abortion care *without undue interference from the government* — including municipalities.[2]
- The Supreme Court has long protected the rights of patients, healthcare providers, and community members to seek reproductive healthcare.
  - The Supreme Court has emphasized that "unnecessary health regulations impose an unconstitutional undue burden if they have the purpose or effect of presenting a substantial obstacle to a woman seeking an abortion." [3]
  - A municipality's abortion-related ordinance is unconstitutional if it "operate[s] as a *substantial obstacle to a woman's choice"* in a majority of cases.[4]

Preventing Third-Party Assistance to Abortion Care is Unconstitutional

- The Supreme Court has previously held that limiting a physician's ability to provide reproductive healthcare is an *undue burden on the right to abortion*.[5]
- Preventing a pharmacy or third-party individual from providing abortion care or access to abortion care is similarly unconstitutional.[6]
- These bans are still unlawful, even if the city does not currently operate or have plans for an abortion clinic.

Unconstitutional Abortion Laws are Expensive

- Local abortion bans open cities up to costly legal liability.
  - In the last year, the ACLU has filed lawsuits in Alabama, Arkansas, Georgia, Kentucky, Ohio, and Texas challenging unconstitutional abortion bans. This type of litigation can be immensely costly and take years to resolve.
  - From 2015-2019, states paid at least $9.8 million in abortion providers' attorneys fees.[7] *$382,530 was paid in Ohio in one case spanning 15 years*.

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1 Roe v. Wade, 410 U.S. 113 (1973).

2 Planned Parenthood v. Casey, 505 U.S. 833 (1992).

3 Whole Woman's Health v. Hellerstedt, 579 U. S. at 2309.

4 Casey, 505 U.S. at 895.

5 June Med. Servs. L.L.C. v. Russo, 140 S. Ct. 2103, 207 L. Ed. 2d 566 (2020) (holding that Louisiana's hospital admitting privileges requirement on abortion providers imposed undue burden on a woman's constitutional right to choose to have an abortion).

6 *See* Carey v. Population Servs., Int'l, 431 U.S. 678, 687-8, 97 S. Ct. 2010, 2017, 52 L. Ed. 2d 675 (1977) (noting the Constitution protects individual decisions in matters of childbearing from unjustified intrusion by the State and a "total prohibition against sale of contraceptives would intrude upon individual decisions in matters of procreation and contraception as harshly as a direct ban on their use"); Griswold v. Connecticut, 381 U.S. 479, 485, 85 S.Ct. 1678, 1682 (1965) (striking down a prohibition on contraceptives); Eisenstadt v. Baird, 405 U.S. 438, 453, 92 S.Ct. 1029, 1038 (1972) (protecting the individual right to contraceptive care).

7 *See* Keating, D. (2019, September 23). Abortion restrictions are costing states millions of dollars — in fees for the other side. The Washington Post. https://www.washingtonpost.com/national/2019/09/23/abortion-restrictions-are-costing-states-millions-dollars-fees-other-side/.