

Governor Phil Murphy

# ICYMI: Acting AG Bruck: New Jersey Files Amicus Brief Supporting U.S. Department of Justice Challenge to Texas Ban on Abortions

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**TRENTON** – Acting Attorney General Andrew J. Bruck announced today that New Jersey has joined a multi-state coalition in filing an amicus brief in support of the U.S. Department of Justice’s recent lawsuit seeking to prevent Texas from effectively banning most abortions in the state.

The Texas law clearly violates the constitutional right to have an abortion procedure prior to viability, which the U.S. Supreme Court has recognized for nearly 50 years. In contrast, the Texas law bans most abortions at approximately six weeks. It contains no exceptions for pregnancies that result from rape, sexual abuse, incest or for pregnancies involving a fetal defect incompatible with life after birth.

Texas legislators have tried to circumvent the Constitution’s protections of abortion rights through an unprecedented scheme that deputizes any person – except Texas state or local officials – to enforce the law in court. Private parties are allowed to recover a minimum of \$10,000 from individuals who facilitate an abortion prohibited by the law, including anyone who performs or induces a prohibited abortion, anyone who “knowingly” “aids or abets” the performance or inducement of a prohibited abortion, and anyone who “intends” to perform or aid a prohibited abortion.

“Texas’s all-out assault on the health and safety of women is unconscionable,” **said Governor Phil Murphy**. “Limiting choice and restricting access to safe reproductive health care endangers the lives of women and their families, particularly those in our most vulnerable communities. Reproductive rights are human rights and we will not sit idly by as these individual freedoms are under attack.”

“New Jersey supports reproductive freedom and eliminating barriers to pregnancy-related care, including abortion,” **said Acting Attorney General Bruck**. “But this case is about more than abortion rights. Allowing private bounty hunters to sue anyone who helps someone exercise their rights is an affront to the Constitution and an attack on all of our rights. We cannot allow this Texas law to become a new template for states to undermine constitutional and civil rights across the country.”

Signed into law in May of this year, the Texas law banning most abortions took effect on September 1 after the U.S. Supreme Court voted 5-4 the same day not to block it. In refusing to block Texas’s implementation of the law, however, the high court did not rule on its constitutionality. The Justice Department’s lawsuit centers on that undecided issue – asserting that the Texas law is blatantly unconstitutional.

Today’s multi-state amicus brief supports the Justice Department’s position that the Texas law is invalid.



The Texas law “represents a new and dangerous frontier in the quest by some State legislatures to restrict or eliminate abortion access in defiance of well-established law,” the amicus brief argues. At its core, the brief contends, the law represents “open and purposeful disregard” of precedent set in *Roe v. Wade*, and in another, more recent U.S. Supreme Court case, *Planned Parenthood v. Casey*.

The brief also asserts that if Texas’s law is upheld and additional states ultimately use similar strategies to enact “copycat” laws placing similar strictures on most abortions, it could have disastrous consequences for the nation.

There is also a concern that the private-enforcement scheme adopted by Texas could be used to undermine other constitutional rights. To illustrate that point, the amicus brief asks what would have happened in the 1950s if a state had permitted parents opposed to school desegregation to sue Black children for enrolling in previously all-white schools.

Today’s brief also argues that the Texas law will cause irreparable harm to many Texas residents – particularly those unable to afford to travel elsewhere for abortion care – by forcing them into unwanted pregnancies, which often have negative health and socioeconomic effects.

The Texas law will also affect other states. For example, New Jersey has a direct interest in protecting the right to abortion care for its own residents who may travel to Texas for work, study or family obligations, and for New Jersey physicians who may practice there.

In addition, the brief cautions that if “access to safe and legal abortion is severely restricted or banned in states across the country, vast ‘abortion deserts’ will arise. The inevitable result is that some patients will be forced to travel hundreds or thousands of miles to receive care, health care systems in states like ours that continue to provide abortion access will face untenable strain, and many patients without resources to travel will simply be unable to receive the care that they need.”

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