

January 19, 2022

DELIVERED VIA EMAIL

Chair Will Robinson
Professions & Public Health Subcommittee
Florida House of Representatives
214 House Office Building
Tallahassee, FL 32399

Re: ACLU FL Written Testimony in Opposition to HB 5, Banning Abortion

Dear Chair Robinson and members of the Subcommittee:

The ACLU of Florida is a nonpartisan organization whose mission is to protect, defend, strengthen, and promote the constitutional rights and civil liberties of all people in Florida. On behalf of our 180,000 members and supporters in Florida, we write in opposition to HB 5, and respectfully request that you vote “No” on this dangerous bill.

Below we have highlighted just a few of the many legal and practical concerns with this bill.

What This Bill Does

Among other things, HB 5 would prevent individuals from accessing safe and legal abortions after 15 weeks and would criminalize medical professionals who provide such critical abortion care.

HB 5 makes no exception for women who are the victims of rape, incest, domestic violence, or human trafficking. Additionally, there is no exception for significant, life-threatening, fetal abnormalities that do not result in imminent death.

This bill poses a serious threat to the health and well-being of individuals seeking abortion care and ignores a pregnant person’s individual needs and circumstances. HB 5 inserts the Government into private healthcare decisions and makes politicians the ultimate decisionmaker over women’s bodily autonomy and the direction of their lives.

HB 5 disavows what the majority of Floridians’ desire -- the freedom to control their lives, their bodies, their healthcare, and their future.



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This Bill is Costly to the Floridians

The introduction of this bill doesn't come in isolation. It is part of a nationwide dangerous, unpopular, and coordinated effort to chip away at access to safe and legal abortion. The majority of Floridians support access to safe and legal abortion, support *Roe v. Wade*, and oppose bans on abortion. Every time unconstitutional bans are passed, they have been challenged in the courts. The ACLU of Florida will continue to fight to protect our constitutional rights. Legislating unpopular and unconstitutional bans on abortion is an irresponsible diversion from the real issues that Floridians need our legislature to address – unemployment, healthcare, affordable housing, clean air and water – having hearings on this bill wastes the legislature's time and resources and Floridians' tax dollars.

Moreover, nearly one in four women will have an abortion before the age of 45. Three-quarters of all patients who obtain an abortion are living at or near the poverty line. And nearly two-thirds of patients who obtain an abortion already have at least one child. Whether you are aware of it or not, chances are very good that you know, perhaps even love, someone in your life who has had an abortion or will need one in the future. The costs of banning abortion are not just financial, they may well be personal – you or someone you love may desperately need this care and if this bill passes, it may not be available to them.

Abortion is and always has been necessary, and Floridians must be free to avail themselves of this care, regardless of the personal opposition of some of our elected officials.

Marginalized Communities Will Be Most Harmed by this Legislation

While abortion has been legal for nearly five decades, many communities have never experienced true access to abortion care. Since abortion became legal, politicians have consistently pushed abortion care out of reach for those struggling financially, young people, LGBTQ people, Black, Indigenous, and people of color. This proposed legislation will most directly impact health outcomes for these already marginalized communities.

Low-income patients, as always, are hit especially hard by restrictions and barriers to access. HB 5 is a cruel legislative attempt to make abortions harder to access, and to criminalize the work that dedicated doctors do to provide this safe, legal, constitutionally-protected care.

Abortion bans do nothing to address the serious economic and health challenges facing Floridians, and instead exacerbate these challenges for those most in-need. HB 5 harms families and jeopardizes health outcomes. Every Floridian should be

able to get the health care they need, including abortion care, without interference from politicians.

This Bill is Dangerous and Unnecessary

Every Floridian should be able to make their own personal, private health care decisions without politicians standing in the way. In a state that prides itself on being free, this is an unprecedented and unacceptable level of government overreach and intrusion. The Florida Constitution provides an explicit right to privacy that is greater and more protective than the federal constitution.

Specifically, Article 1, Section 23, of the Florida Constitution, entitled “Right of privacy” states that “Every natural person has the right to be let alone and free from governmental intrusion into the person's private life...”

There is no greater government intrusion into a person’s private life than politicians dictating whether and when an individual should become a parent.

A woman’s health care decisions should be made by her and her doctor, not politicians. The U.S. Constitution precludes states from banning abortion before viability. The United States Supreme Court’s 2016 decision on abortion rights, *Whole Woman’s Health v. Hellerstedt*, reaffirmed that abortion is a constitutionally protected right subject to heightened judicial scrutiny. Additionally, the Supreme Court’s ruling in *Roe v. Wade* made unduly restrictive state regulation of abortion unconstitutional. HB 5 is a blatant attempt to undermine this ruling and contravene the decades of law and case law on this issue. Bans like these are blatantly unconstitutional. It is a waste of our legislature’s and court’s time, and taxpayer dollars, to pass unconstitutional legislation. The government should not have the power to decide for a woman what to do with her body or whether and when to have a child. We need to trust women – not legislators -- to make these important decisions in consultation with their health care providers and those closest to them.

Conclusion

Addressing the unprecedented public health crisis posed by COVID-19 should be the legislature’s top priority – not making it harder to access constitutionally protected and safe health care. The decision about whether and when to become a parent is one of the most important decisions we make. We should be free to make this decision in consultation with medical providers and those we love and trust, and without barriers, political interference, and government regulating our bodies.

For all these reasons, we urge you to vote “No” on this unconstitutional, unnecessary, and costly bill. Please do not hesitate to contact Kara Gross,



Legislative Director of the ACLU Florida, at kgross@aclufl.org if you have any questions or would like any additional information.

Sincerely,



Kara Gross
Legislative Director &
Senior Policy Counsel

Cc: Kirk Bailey, Political Director, ACLU FL
Neisha-Rose Hines, ACLU FL

