

# A Difference That Makes A Difference

## States Try New Approaches to Limit Abortion

**A**bortion opponents know they have a problem. As long as *Roe v. Wade*—the 1973 Supreme Court decision that affirmed the right to abortion—remains in effect, abortion cannot be banned outright. Arkansas and North Dakota found that out in 2014, when federal courts struck down laws that banned abortion after a certain number of weeks of pregnancy.

Many abortion foes believe that continuing to press the courts on the underlying legal question is the best and most moral strategy. But others have come to embrace an approach that, rather than seeking to eliminate abortions, chips away at access to the procedure. In recent years, numerous GOP-controlled states have imposed hundreds of new restrictions on clinics, such as requiring their physicians to have admitting privileges at neighboring hospitals and stricter building standards.

In Ohio, 4 of the state's 14 abortion clinics closed once such restrictions were put in place, with others remaining in legal peril. The goal of this strategy is not to ban abortion—"There are things that are banned that occur every day," said Mike Gonidakis, president of Ohio Right to Life—but to end it. "Abortion is legal, so you must have incremental legislation to save as many babies as we can," he said.

Abortion rights supporters, of course, objected. After Ohio passed its law requiring clinics to have patient transfer agreements in place with nearby hospitals, it passed another barring public hospitals from entering into such agreements. "When they initially put into the law the requirement of a transfer agreement, they said

it was for the good of the women," said Jerry Lawson, CEO of Planned Parenthood of Southwest Ohio, which operates clinics in Cincinnati and Dayton. "Then they turn around and pass a law that says public hospitals can't have transfer agreements," he said. "Now, which is it—are you worried about the women, or are you interested in preventing abortions?"

The new laws have been so good at preventing abortion—or at least forcing clinics to close—that some federal courts became wary of them. The Supreme Court in 2013 refused to block a Texas law that requires clinic physicians to have hospital admitting privileges, but lower courts subsequently found that if women live too far from clinics able to meet such requirements, that puts an undue burden on their right to abortion.

A Mississippi law that would have forced the state's only clinic to close was blocked for this reason in 2014. Texas, which was expected to see its total number of clinics drop from 40 to fewer than 10 once its law was fully implemented, saw several clinics closed once the law took effect. The Supreme Court soon ruled they could reopen pending the final disposition of the case. A federal judge had ruled that too many women would live more than 150 miles from an operating clinic, which too greatly restricted their access. The state countered that most of the population would live close enough to drive to a clinic. "Driving distances of 150 miles are not an undue burden, and 10 percent is not a large fraction," the state argued in a legal filing seeking to go ahead and close most of the state's clinics.

