

# Utah lawmakers tee up a court fight with passage of an 18-week abortion ban

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Republican Utah senators were undaunted by the near-certainty of lawsuits and an uphill battle through the courts as they voted 23-6 along party lines Wednesday evening to ban elective abortions after 18 weeks of fetal development.

A bipartisan majority of their House counterparts had voted last month to approve the bill, HB136,

and Spanish Fork Republican Sen. Deidre Henderson — the bill’s Senate sponsor — argued that it preserved a woman’s right to have an abortion for any reason before 18 weeks, while expanding the exceptions for a legal procedure beyond that deadline. “I’m very proud that we here in the state of Utah value life,” Henderson said.



But within minutes of the Senate’s vote, a left-leaning advocacy organization, the legal arm of a major abortion provider and the ACLU were warning of lawsuits against the state on constitutional grounds.

“It will now head to the Governor’s office,” read a tweet from the Planned Parenthood Action Council of Utah, “and if he signs it, we will be fighting this in court.”

If HB136 is signed into law, the ACLU of Utah warned, the organization “together with our partners in the state, will pursue a lawsuit in federal court to stop this violation of a woman’s constitutionally protected right to an abortion.”

The Alliance for a Better Utah also issued a statement on HB136, saying Utahns can expect to see their tax dollars “burned up in litigation” instead of supporting health care and educational efforts that could decrease abortions and miscarriages in the state. “If the Legislature wants a pro-life policy, this bill isn’t it,” said Better Utah policy director Lauren Simpson.

Supreme Court precedent under the landmark case Roe v. Wade established a constitutional right to an abortion before a fetus reaches viability, traditionally defined at roughly 24 weeks of development.

Supporters of HB136 have argued that advancement in medicine allow for children to survive birth at earlier stages. But the bill’s primary sponsor, West Jordan Republican Rep. Cheryl Acton, stated that her intention with the bill is not to establish a new viability standard, but to challenge the concept of fetal viability as the basis for a constitutional right.

During debate on Wednesday, Sen. Lyle Hillyard, R-Logan, said that 18 weeks is “probably as good a point as any” to establish the state’s threshold for elective abortion procedures. And the arguments about a woman’s right to choose, Hillyard said, ignore the fact that an unborn child is involved.

A child’s right to live is, and should continue to be, an important consideration in society, Hillyard said.

“If we lose that,” he said, “heaven help us.”

Utah lawmakers last month approved a separate abortion ban, prohibiting the procedure when the sole motivation is a pre-natal diagnosis of Down syndrome. But that bill included a clause that delays its implementation until the courts uphold similar bans in other states.

Sen. Gene Davis, D-Salt Lake City, said the Legislature continually attempts to defy the courts and deny women the rights guaranteed to them.

“I find that demeaning to women,” he said. “And I find it wrong.”

A spokesperson for Utah Gov. Gary Herbert declined comment Wednesday, but referred to previous statements the governor has made indicating his support for tightening the state’s restrictions on elective abortions.

“I’m a pro-life guy,” Herbert said during a media event last month, “and that’s where my biases are.”