

# Senate Judiciary Committee

*Jennifer Horgan 271-7875*

**SB 436-FN**, relative to access to abortion care.

**Hearing Date:** January 19, 2022

**Time Opened:** 4:31 p.m.

**Time Closed:** 5:20 p.m.

**Members of the Committee Present:** Senators Carson, Gannon, Whitley and Kahn

**Members of the Committee Absent :** Senator French

**Bill Analysis:** This bill establishes the state policy regarding access to abortion care.

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**Sponsors:**

Sen. Perkins Kwoka  
Sen. Watters  
Sen. Sherman  
Sen. Prentiss  
Rep. Weber

Sen. Rosenwald  
Sen. Whitley  
Sen. Cavanaugh  
Rep. Simpson  
Rep. Ebel

Sen. D'Allesandro  
Sen. Soucy  
Sen. Kahn  
Rep. Knirk  
Rep. M. Murray

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**Who supports the bill:** 1657 people signed up in support of the bill. Full sign in sheet available upon request.

**Who opposes the bill:** 138 people signed up in opposition to the bill. Full sign in sheet available upon request.

**Summary of testimony presented in support:**

**Senator Perkins Kwoka**

- Reproductive rights have never been more in peril than they are now.
- The US Supreme Court is poised to dismantle the right to an abortion afforded by Roe v. Wade as soon as June of this year.
- Immediately upon this decision as many as 26 states will have banned abortion or deeply restricted access.
- In NH there is nothing in place to ensure the right to have an abortion.
- This bill will put it into law, leaving abortion to be safe and legal regardless of what happens at the Supreme Court.
- Granite Staters by in large strongly support access to safe and legal abortions.
- Nationally, 8 in 10 Americans support Roe v. Wade.
- 75% of Americans generally believe that abortion should be a private decision between a woman and her doctor.

- Is opposed to the 24-week ban and the mandatory ultrasound requirement but, this legislation does not seek to repeal or amend those in any way.
- This legislation specifically honors state law.
- This bill will enshrine in our statutes the right to a safe and legal abortion up to 24-weeks.
- The World Health Organization readily acknowledges that putting legal restrictions on abortion does not actually reduce abortions.
- Much like with prohibition's black market, without ensuring access to safe and legal abortions, pregnant women will seek riskier alternatives or travel out of state.
- University of California San Francisco performed a longitudinal study of the effects of unwanted pregnancies on women's lives.
- The study showed that being denied an abortion results in worse health, financial, and family outcomes.
- Women forced to carry an unwanted pregnancy to term are four times more likely to live under the federal poverty level, are more likely to experience serious complications at the end of pregnancy, more likely to stay with abusive partners, and they are more likely to experience poor physical health for years after pregnancy.
- Being denied an abortion of an unwanted pregnancy has serious implications for the children born of that unwanted pregnancy, as well as for the existing children in the family.
- All these outcomes will have ripple effects that will negatively impact our economy, society, and generations to come.
- A woman is in the best position to make this decision.
- We need to trust that the decision to have an abortion, while potentially traumatic itself, will allow that woman to truly be the mother she can be at a time when she can support her child.
- Has been impacted by pregnancy trauma around her and shared the fear she held during her pregnancy.
- We cannot expect women to bear children without a deep respect for such a responsibility it bestows.
- Without this we will deprive half of our society of rights and create ripple effects of unintended consequences.
- Senator Gannon asked if this would recognize future changes to state law.
  - The only exception in this legislation is to recognize the existing state law that passed last year.
- Senator Kahn spoke to the Executive Council's recent decisions to defund entities that might provide information about abortion care as an option. Asked if this bill passes what the difference would be for funding access to abortion care.
  - It provides certainty to providers and residents. Affirms that the legislature does respect this right. This does address to some degree what

has become a concern for providers. As a clear policy decision, this bill encourages our other policy making bodies to administer and execute on that right.

- Senator Whitley asked if she could identify why this is necessary now.
  - The right to an abortion is protected by Roe v. Wade. If that decision is overturned or narrowed, which is a distinct possibility in this Supreme Court session, Granite State women would be unprotected. The rights many of us have known our whole lives would no longer exist. This bill would ensure those rights would continue to be enjoyed.
- Senator Whitley asked how this aligns with NH values regarding freedom and individuality.
  - The majority of NH residents think it is a woman's right to choose and that it should be a decision between a woman and her doctor. Traditionally in NH we have been about respecting individual rights and acknowledging each member of society as equal. Thinks this bill aligns with the NH values of respecting each other and letting others carry on their lives.
- Senator Gannon asked if Roe v. Wade is gone, should we not hold a policy committee to determine when life begins.
  - She does not know when life begins, and no committee could know that. Each pregnancy is different and new information can be learned at any time. We can't legislate this decision. This is between a woman and her doctor, and the doctor is in the best position to assess a woman's medical needs.
- Senator Gannon asked if we are just going to allow each woman to make her own decision about when life begins with no boundaries and not giving women any direction.
  - That is exactly the point, we don't need to be giving direction to women about how to make decisions about their own bodies and their own lives.
- Senator Whitely asked if Roe v. Wade doesn't specifically say 24 weeks.
  - Correct.
- Senator Whitley asked if Roe v. Wade establishes a viability framework that has been expanded on by additional cases and if isn't it true that Roe itself might be going away soon.
  - It could be going away. This bill enshrines what is a woman's rights are today in NH. The 24-week ban is the first time in NH history that we have ever limited a woman's right to an abortion.
- Senator Kahn asked if this is a policy guidance and not a question of timing.
  - That's correct. The language of this bill doesn't talk about timing at all. It merely encodes the right to abortion care with an exception for existing state law. Should that exception go away then that right would be what it was a year ago.

- Senator Gannon asked if SB399 passes and this passes then a woman could get an abortion right up to birth at full term.
  - These are highly personal decisions between a woman and her doctor. If both bills were to pass the law would go back to where it was a year ago and a woman would have the right terminate a pregnancy.

**Devan Quinn** (NH Women's Foundation) (provided written testimony)

- Reiterated testimony from SB399.
- Pointed out the inequities an abortion ban has on certain members of the community.
- Social determinates of health are impacted positively by a person's right to choose.
- Women and all people that can become pregnant should have access to the full range of reproductive choices, including abortion.
- The right to an abortion can be a means to economic prosperity, safety, the ability to flee violence, the opportunity to pursue dreams, develop thriving communities, and for some the chance to protect their own health.
- In NH, women are more likely to live in poverty than men with a gendered wage gap that increases with race, ethnicity, and county.
- Women are more likely to be impacted by interpersonal violence and sexual violence.
- Senator Whitley asked what populations are harmed the most by abortion restrictions.
  - Restrictions on abortions harm more specifically women of color, low-income women, women whose primary language is not English, the LGBT community, and women in rural communities that cannot access care. Reproductive healthcare is one part of a holistic idea of health.
- Senator Gannon stated that the abortion percentage for Black women is 500% higher. Feels bad for the Black community for taking away their babies of the future. Asked about how abortion cuts the population of the Black community.
  - It is so important for women and people who can become pregnant in communities of color to have access to the care that they need.
- Senator Carson asked for further statistics.
  - Absolutely.

**Liz Canada** (Planned Parenthood) (provided written testimony)

- The repealing of Roe v. Wade could result in 36million women losing access to abortion care in their home state within a year.
- On September 1<sup>st</sup>, 2021 Texas enacted a six week abortion ban, and patients have had to leave the state to access the care that they need.
- Health centers in NH have already seen patients from TX since that ban was enacted.
- Only patients who have the money, childcare, and time off of work will be able to travel across state lines to access care.

- The rest of women will be forced to carry their pregnancy because they will not have access to care.
- 1 in 4 women in the US will have an abortion before the age of 45.
- Nationally, 60% of abortion patients are in their 20s, 59% already had a child, and 24% identify as catholic.
- In NH for decades, we have enjoyed broad bipartisan support of access to reproductive healthcare.
- That has been shown in polls of the public, but also in NH's elected leaders.
- In 1997 then Governor Shaheen signed in to law the repealing of the pre-Roe abortion restrictions with Republican majorities in the House and the Senate.
- This bill is what the majority of Granite Staters want.
- Senator Whitley asked about the documents she provided to the Committee.
  - Provided written testimony and a coalition letter of organizations in support of the legislation. That coalition includes healthcare providers and non-profit organizations. It is a broad coalition of individuals across that state.
- Senator Carson asked if this bill is pre-emptive, enshrining a woman's right to an abortion irregardless of what the Supreme Court decides.
  - Does not think it is pre-emptive. NH doesn't wait for DC to make decisions to take steps, and this is what Granite Staters want to see.
- Senator Carson asked for the bill number of the repeal in 1997.
  - Happy to provide that.

**Frank Knaack** (ACLU) (provided written testimony)

- The six week bans in other states started with 20-week bans, required ultrasounds, and trap laws, things we are seeing happen in NH today.
- When it comes to the most personal decision in someone's life it should be up to the pregnant person free from political interference, free from shaming, and free from punishment.
- Senator Whitley asked about the steps other states took before enacting more extreme bans.
  - This is an opportunity for the state to make clear that we feel this is a fundamental right all people should have access to. We just need to draw a line in the sand.
- Senator Whitley asked if the fact that the Supreme Court has not stopped the TX abortion ban indicates the direction the Supreme Court is going in terms of abortion rights.
  - The signs are deeply troubling. We have seen a general crawl back over the past couple terms in key decisions the court has made.
- Senator Gannon asked if no person should be forced to carry a pregnancy even after viability.
  - Yes. Pre-birth believes it is the pregnant person's right to decide.
- Senator Kahn asked if keeping in mind the current restrictions, this bill represents that no person should be forced to carry a pregnancy.

- This bill would be limited to existing state law. Believes it should go further. This is an important step in ensuring women can choose when to have a child.

**Honorable Matthew Houde (Dartmouth Hitchcock)**

- Dr. Cass had to leave for afternoon obligations.
- Should the legislature not repeal the Fetal Protection Act with SB399, would support this bill.
- Would support this because the reasons Dr. Cass spoke to in SB399 relative to the recruitment of individuals to the Dartmouth Hitchcock program.
- Dr. Cass is concerned that without evidence of the state's steadiness with respect to this issue that providers would be less inclined to come to the state.
- Dr. Cass has seen that with respect to TX in conversations with her colleagues.
- Reiterates points made in the SB399 hearing.
- Senator Gannon asked if Dartmouth Hitchcock supports a woman's choice to have an abortion between viability and natural birth.
  - Dartmouth Hitchcock employs 13,000 all with different opinions on abortion rights. Would not take a position on that.

**Summary of testimony presented in opposition:**

**Representative Stapleton**

- This bill is flawed.
- Abortion is not really care; it is a procedure that terminates human life in the womb.
- Other than to save a life or an essential function of health of the mother or for a medical emergency, it is a wanton destruction of human life.
- The bill states that abortion may not be restricted except for under RSA 329:44 and RSA 132:32-RSA 132:36.
- The bill omits RSA 329:32-42 the Partial Birth Abortion Ban and RSA 132:23 the Live Births Infant Protection Act. Such sections speak to the intent of the law in the Fetal Life Protection Act to protect life in the womb, which this bill would disable.
- RSA 329:41 states "Nothing in this subdivision shall be construed as creating or recognizing a right to abortion."
- The problem is that those laws are ignored in this bill.
- An overwhelming number of his constituents support the Fetal Life Protection Act.

**Jason Hennessey (NH Right to Life)**

- Practically, this bill is a solution in search of a problem.
- The bill does not accomplish anything because any changes in law in the future would just amend this RSA.
- NH typically does not pass laws to just to say we agree or disagree on some sort of theory that doesn't have any practical applications.
- Who is a person and what rights do people deserve?

- This bill would deny the humanity of certain persons.
- The ancient Hippocratic Oath prohibited physicians from performing abortions.
- Asks that NH not be one of the first states to enshrine the oppression of unborn human life in law.
- NH does have a Safe Haven Law where a mother who is economically disadvantaged is allowed to give up her baby.
- Senator Whitley asked if any future restrictions would be prohibited under this bill.
  - Each bill has the list of RSAs they amend. If anyone is writing an RSA restricting abortion you would just need to amend this RSA. It would just add an extra boiler plate to any future bills.

### **Robert Lacoste**

- Is a retired nurse anesthetist.
- Cared for two young women who almost died from their abortions.
- Abortions are not without possible, very serious side effects.
- Most abortions are for unwanted pregnancies rather than fetal anomalies.
- Shared his experience at the 2020 March for Life event.
- Most abortions are performed on women of color and/or lower income women.
- We need to consider fetal rights versus reproductive rights.
- Shared his experiences working with women.
- There are several organizations that can help women with their reproductive rights without an abortion in the state.

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Date Hearing Report completed: January 24, 2022