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U.S. Supreme Court changes embolden Texas Legislature's abortion foes heading into session

Conversely, abortion rights advocates see the government's response to COVID-19 as an opportunity to expand health care and abortion access.



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The Texas State Capitol in Austin, Texas on Thursday, Jan. 7, 2021. (Lynda M. González/The Dallas Morning News) (Lynda M. González / Staff Photographer)



By [Alex Brisen](#)

5:26 PM on Jan 12, 2021



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AUSTIN — With their hopes raised by a more conservative U.S. Supreme Court, lawmakers who seek tighter restrictions on reproductive rights are making sweeping abortion legislation a priority for the 2021 session.

But abortion rights advocates, who have had several legal battles with the state during the COVID-19 pandemic, continue to push for expanded health care and access to abortion.

As for abortion opponents, their hopes were refueled after a strong statewide performance by Republicans in the November election, along with the 6-3 conservative majority that outgoing President Donald Trump is leaving on the high court after getting to name three new justices.

The executive director of the Texas Alliance for Life, Joe Pojman, said Republicans' success in November should embolden abortion opponents heading into the legislative session that began Tuesday.

“The blue wave, funded by millions of dollars, came into Texas, crashed on the rocks and went nowhere,” Pojman said. “I think Republicans have every right to feel emboldened to continue to advance a reasonable but a conservative agenda.”

He added, “The seas are much flatter and less turbulent now for leadership in the House and Senate than two years ago.”



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Courtney Chambers, Texas advocacy director for Whole Woman's Health Alliance, said the pandemic makes access to abortion especially important this session.

“Lawmakers should really be focusing on ensuring expanded access to health care, making sure people have everything they need and not spending time on restricting access and restricting abortion care,” Chambers said. “Now is not the time, during a pandemic, to focus on having less access to health care.”

Justice Amy Coney Barrett, the third high court pick of Trump's presidency, was confirmed on Oct. 26, the week before Election Day.

Democrats opposed the timing of the nomination, citing 2016, when the Republican-led Senate shut out President Barack Obama's nominee, Merrick Garland, almost eight months before the elections. The Senate confirmed Barrett on a 52-48 vote, sliding the Supreme Court to the right and giving abortion opponents hope that the court will chip away at abortion rights.

Pojman said one of Alliance for Life's priorities is passage of the Human Life Protection Act, which would prohibit abortion beginning at fertilization if the Supreme Court overturns *Roe v. Wade*.

He also said his group is closely watching *Dobbs v. Jackson Women's Health Organization*, a case that could allow the high court to review Mississippi's 15-week abortion ban, which failed to go into effect in 2018 when a federal appeals court ruled it unconstitutional.

If the Supreme Court takes the case, Pojman said, Texas needs to have a new law ready to go into effect when the court rules.

“They may allow states to ban abortions at 15 weeks, they may change the precedent in other ways; we have no way to know,” Pojman said. “We have realized that we have to be very patient.

for Texas Democrats, Republicans

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Our hopes have been dashed many, many times in the past, but there’s a possibility.”

As reported by the *Austin American-Statesman*, Mineola Republican Sen. Bryan Hughes said in December that he anticipated a push for a “heartbeat bill,” which would ban abortion from the moment a fetal heartbeat is detected. On an ultrasound, a fetal heartbeat can typically be seen around the six-week mark, before many women know they are pregnant.

Other bills such as HB69, filed by Rep. Steve Toth, a Republican from The Woodlands, would ban abortion at or after 12 weeks, down from the current law’s 20 weeks.

Chambers, of Whole Woman’s Health Alliance, acknowledged the Supreme Court’s changed makeup but said that abortion rights advocates are committed to doing all they can to maintain access to the procedure.

In March, abortion providers and advocates **sued the state** over a COVID-19-related governor’s order that banned “medically unnecessary” procedures in order to preserve hospital beds and personal protective equipment.

Texas Attorney General Ken Paxton’s office said abortions that are not medically necessary to preserve the life or health of a woman fell under Gov. Greg Abbott’s restrictions and **must be postponed**.



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After the governor’s provisions **rattled between federal courts**, Abbott ultimately eased restrictions on elective medical procedures. Abortion providers then became exempt under a new order that allowed medical procedures that don’t deplete supplies or personal protective equipment.

As reported in April, though, the fight didn’t come without consequences, as **hundreds of procedures** had to be rescheduled after being canceled or delayed.

As COVID-19 continues to ravage the state over eight months later, Chambers reiterated that health care should not be limited during a pandemic and added that it is time for lawmakers to stop interfering with abortion access.

“For a long time, lawmakers have been passing laws that are restricting access even though the majority of Texans want access to legal and safe abortion care,” Chambers said. “So we’re hopeful that we will be able to get Texans’ voices heard at the Legislature and that there will hopefully be an end to interference soon.”



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[Alex Briseno](#). Alex Briseño is covering politics in Austin for The Dallas Morning News. He was born in Seguin, Texas, and is a recent graduate from the University of Texas at Austin. During his time at UT, Alex interned at Sports Illustrated, freelanced for newspapers across the state and spent four years at the student newspaper, The Daily Texan.

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