

News From The States

REPRODUCTIVE RIGHTS TODAY

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By [Kelcie Moseley-Morris](#) and [Elisha Brown](#)



Arizona's high court is set to hear arguments Tuesday in a case seeking to revive a Civil War-era abortion ban.

(Jim Small/Arizona Mirror)

A hearing at the **Arizona Supreme Court** today could shape the **future of abortion access** in the state, as a group of anti-abortion clinics lobbies the court to return the law to a **near-total ban passed in 1864**.

Dr. Eric Hazelrigg is medical director of a group of clinics called Choices Pregnancy Center, and he is working with conservative legal firm **Alliance Defending Freedom** to ask the court to reinstate the nearly 160-year-old ban. The case is between **Planned Parenthood Arizona** and the state's current Democratic Attorney General **Kris Mayes**, but it began when Republican Attorney General Mark Brnovich was still in office and he sought to revive the ban. Mayes has refused to defend the law in court, leaving the opportunity open for Alliance Defending Freedom — a Scottsdale-based legal organization that takes on [conservative culture war causes](#) such as bans on abortion, gender-affirming care and what they consider

infringements of religious freedom — to step in and argue the case on Hazelrigg's behalf, along with Yavapai County Attorney **Dennis McGrane**.

ADF filed an appeal to the Arizona Supreme Court after an appellate court overturned a September 2022 decision that **put the 1864 ban in place for about two weeks**. During that time, providers said the court rulings caused **mass confusion**. The appellate court ruling restored access to abortion up to 15 weeks, with a sole exception after that point to **save the pregnant patient's life**. The 15-week ban was passed in March 2022, just a few months before the U.S. Supreme Court's *Dobbs v. Jackson Women's Health Organization* decision in late June.

ADF and McGrane argue the state legislature **never intended to create any right to abortion** through laws passed after the 1973 *Roe v. Wade* ruling, and the 1864 ban reflects the **will of the people** of Arizona.

One of the defendants in the case is Pima County Attorney **Laura Conover**, a Democrat, who sided with Planned Parenthood Arizona of Tucson and publicly declared she would **not prosecute anyone who assists with or receives abortion care**. States Newsroom spoke with Conover on Monday ahead of the hearing. Her responses have been edited for clarity and conciseness.

States Newsroom: What's your role in this court case?

Laura Conover: In Arizona, we have a county attorney system, so I am both the district attorney in the sense that I am the top prosecutor for this county of 1.1 million people, and then I'm also the county's attorney, so I have this massive civil law firm division, and we represent county agencies. We're also the legal advisor to the (county) board of supervisors.

When *Roe* fell, Attorney General Brnovich came into court very quickly and said we should go all the way back to the 1864 near-total ban on abortion, which did not make sense to me in a legal analysis, because the state legislature has been passing statutes for 50 whole years on the topic, including that very year, months before *Dobbs*. So I agreed with Planned Parenthood that 50 years of law had happened that we could not simply ignore and revert back to 1864, so I switched sides.

A huge piece of this case is that we now have a new attorney general (Mayes), and she has also switched sides, so she is on our side before the state supreme court.

SN: What's at issue before the court, and what is your side arguing should happen?

Conover: We think the 15-week (ban) should stand. They want to go back to the 1864 law, and we think that's wrong lawfully, and we have seen what that looks like for the very brief period when we lost the case at the trial court level.

SN: What did that look like statewide, when the 1864 ban was in effect?

Conover: When everything is in flux and no one is sure exactly what the law prohibits and allows, chaos ensues with really bad consequences. We received reports that victims of sexual assault delayed reporting because they needed privacy and anonymity to deal with an

unwanted pregnancy that was the result of a violent attack, and they didn't feel safe because care was in flux. And in a sexual assault case, my ability to hold people committing violent acts disappears as the evidence disappears. Or, for example the molesting of a child who may be of puberty age — it interrupted our ability to hold people accountable for the most important of crimes because of the fear of alerting law enforcement and not knowing whether abortion would be legal. The instinct is to avoid attention.

Because of the very obvious stance that I had taken (to protect abortion seekers and providers), reproductive health care continued in southern Arizona because providers had enough confidence that they would not be prosecuted. It disappeared everywhere else statewide. People in the northern part of the state, where a lot of tribal lands are located, were about eight hours away from access in the southern part of the state.

SN: What do you want people to know ahead of tomorrow's hearing?

Conover: I think that the fall of Roe has caused a great deal of confusion and fear, and what sits with me heavily is that people my mother's age and even my grandmother's age have fought this battle already, and people in my generation and the generations below me just grew up with health care and not knowing any differently. And I think if these cases do anything, it awakens us and alarms us to be more vigilant about our rights.

[Arizona Mirror](#) will have coverage of the hearing today.

THE BEAT *States Newsroom coverage*

Texas woman leaves state to get emergency abortion for nonviable pregnancy

The Texas Supreme Court vacated a lower court decision on Monday that temporarily gave a Dallas woman permission to have an emergency abortion. The high court order, which effectively denied her request, was released hours after Kate Cox's lawyers said she left the state in order to terminate her nonviable pregnancy, [Texas Tribune](#) reports.

In the [order](#) released Monday evening, the court said Cox's doctor believed her patient needed an abortion "in good faith," but not based on "reasonable medical judgment," the standard set by the state's laws. The court also said the doctor did not assert that Cox had a "life-threatening condition," another requirement. Justices also urged the Texas Medical Board to issue guidance about the restrictions.

Cox asked a district court judge last week for permission to have an abortion — Texas has a near-total ban — after she learned her fetus had full [trisomy 18](#), a lethal diagnosis. The judge granted Cox a temporary restraining order on Thursday, ruling that she could have an abortion and that her doctors should be shielded from prosecution.

Republican Attorney General Ken Paxton disagreed, sending a [warning letter](#) to three hospitals where Dr. Damla Karsan, Cox's OB-GYN, has admitting privileges. Paxton

bypassed the appeals process and asked the state's high court to block the previous order late Friday night. The court granted Paxton his request.

“This past week of legal limbo has been hellish for Kate,” said Nancy Northup, **president and CEO at the Center for Reproductive Rights**. The group's senior staff attorney Molly Duane represented Cox in court. “Her health is on the line. She's been in and out of the emergency room and she couldn't wait any longer.” **Continuing the pregnancy would have jeopardized Cox's fertility**, Northup said in a [statement](#). The Center for Reproductive Rights is also representing several Texas women who said they needed abortions for pregnancy complications but were denied care due to the state's bans.

Nebraska education board member wants Lincoln schools to stop teaching sexual health



*Parents complained that a Nebraska reproductive health care worker talked to their teens about safe sex.
(Aaron Sanderford/Nebraska Examiner)*

A socially conservative Nebraska Board of Education member is urging Lincoln Public Schools to stop requiring a sociology and psychology course after a guest speaker told students how to get contraception with or without parental consent. [Nebraska Examiner](#) reports that board member Kirk Penner said he received complaints from parents this fall about a lecturer who shared information with high schoolers about pregnancy tests, STD testing, condoms, lubricant, birth control and morning-after pills. **Federal law protects minors' access to birth control without parents' permission.** (A court ruling in [Texas](#) this

year banned the right for teens in that state, though.) A spokesperson for Lincoln Public Schools said the teacher involved didn't follow proper protocol before inviting the guest. Penner said parents deserved to know beforehand.

The speaker worked at a family planning clinic and spoke to the class in October for a planned lesson on sexual boundaries. She described the scope of the services provided at the clinic and informed the teens that the staff doesn't have to use their insurance, according to a recording of the lecture reviewed by the Examiner. "If the parents or guardians call us and ask us if so and so was there, we can neither confirm or deny that," she said. The health care worker also said they have more than 800 Plan B pills as well as condoms in stock. Nebraska Family Planning, which helps fund the Lincoln clinic, defended the discussion.

Florida attorney general follows GOP strategy to challenge abortion ballot initiative

Heading into 2024, campaigns to restore or guarantee abortion access are underway in several states, including Florida. Republican Attorney General Ashley Moody has led opposition to Floridians Protecting Freedom's proposed constitutional amendment that would allow abortions up to fetal viability and beyond if the patient's health or life is in danger, [Florida Phoenix](#) reports. Moody has asked the state Supreme Court to reject the petition, saying the ballot language would "hoodwink" voters and that the meaning of "viability" is ambiguous.

Experts told the Phoenix that Moody could be following a playbook similar to GOP officials' actions against initiatives in Ohio and Missouri. Skye Perryman, president and CEO of Democracy Forward, said there's a national trend of "far right policymakers and others trying to go out of their way to either keep things off the ballots, keep voters from being able to exercise their voice on important issues, or to engage in misinformation to sort of confuse things."

For instance, Ohio Secretary of State and Ballot Board Chair [Frank LaRose](#) admitted he consulted with major anti-abortion groups when writing ballot titles for Issue 1. In [Missouri](#), the attorney general and secretary of state — both Republicans — filed unsuccessful lawsuits related to an abortion petition that has stalled the campaign's progress. **A group called Florida Voters Against Extremism was founded with the sole purpose of preventing the abortion measure from making the ballot.** This mirrors the anti-abortion group [Protect Women Ohio](#), which ran million-dollar ad spots falsely saying Issue 1 would diminish parental rights.

THE PULL *Commentary from Missouri*

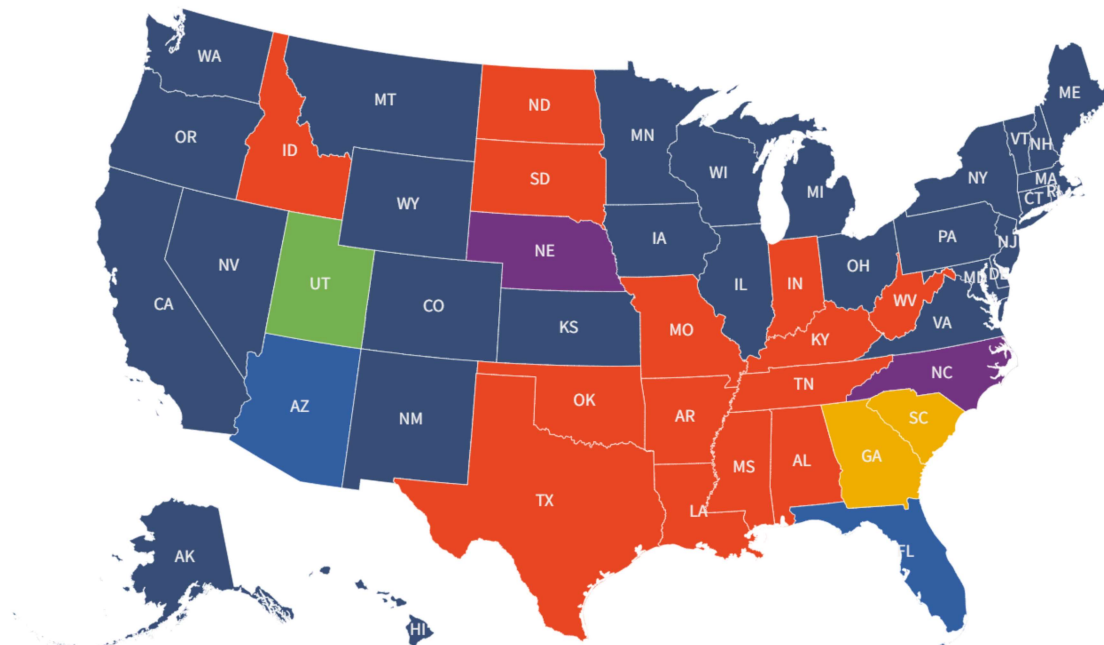
"What will legislators find in the present marked health care? There are a host of opportunities in that box to address some tough and lingering issues when it comes to

availing Missourians access to the best health care in multiple areas. Let's begin with providing citizens the opportunity to weigh in and vote on a 2024 ballot measure to help resolve the abortion issue." — **Janice Ellis**, contributor, [Missouri Independent](#)

THE PULSE *Reproductive rights news across the country*

- Planned Parenthood Great Plains endorsed the Missouri House minority leader's gubernatorial campaign. ([Missouri Independent](#))
- U.S. senators from West Virginia and South Dakota introduced a bill that would give military officers back pay after Alabama Sen. Tommy Tuberville held up their promotions this year. ([South Dakota Searchlight](#))
- The number of abortions performed in New Mexico increased 279% since 2020. ([Source New Mexico](#))
- Ohio Senate President Matt Huffman expressed interest in a 15-week abortion ban last month, but his spokesperson recently said there won't be any legislative efforts to overturn the reproductive rights amendment. ([Ohio Capital Journal](#))
- A Wyoming district court judge allowed expert witness testimony from plaintiffs challenging the state's abortion laws. ([WyoFile](#))
- Hawaii received a \$295,000 federal grant to reduce pregnancy-related deaths. ([Hawaii Tribune Herald](#))
- Experts say abortion restrictions in the South, coupled with rural hospital closures, the health care worker shortage, chronic disease, high obesity rates and the lack of Medicaid expansion contribute to dangerous birth outcomes for Black mothers and infants. ([KFF Health News](#))

STATE BY STATE *Abortion access in the U.S.*



Open this interactive map in your browser

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