

Dept. of Justice: AG Kaul urges U.S. Supreme Court to halt unconstitutional Texas abortion ban

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Joins Multistate Amicus Brief Asking the Court to Vacate Fifth Circuit's Stay of a District Court Order Blocking Enforcement of S.B. 8

MADISON, Wis. – Attorney General Josh Kaul today joined a coalition of 24 attorneys general in urging the United States Supreme Court to stop Texas’ unconstitutional six-week abortion ban, Senate Bill 8 (S.B. 8), by vacating the Fifth Circuit Court of Appeals’ stay of a District Court order blocking the ban from going into effect.

The [amicus brief](#), filed with the Supreme Court in the case of United States of America v. State of Texas et al., supports a challenge by the U.S. Department of Justice (DOJ) and calls on the Court not to allow Texas to openly disregard nearly a half century of precedent by keeping this unconstitutional, across-the-board ban in place within its borders.

“S.B. 8 is harming women who need health care, restricting freedom, and disdainful of the rule of law,” said Attorney General Josh Kaul. “We are calling on the Supreme Court to block Texas’ unconstitutional ban on most abortions.”

According to the brief, S.B. 8 not only imposes a ban on almost all abortions in Texas in open disregard of the Supreme Court’s precedent, but also attempts to thwart judicial review and insulate Texas from accountability by purporting to create only a private enforcement scheme. Texas created a structure within its state court system that requires courts to provide monetary and injunctive relief to claimants who bring cases against providers and those who “aid or abet” such constitutionally protected care. The law threatens people who help patients in Texas obtain access to an abortion by creating a more than \$10,000 potential liability for anyone who so much as gives a patient a ride to an abortion provider.

In accordance with the ban, providers in Texas have largely stopped providing abortion care to their patients. This has affected not only patients in Texas, but clinics and patients in states like California, Colorado, Illinois, Oklahoma, and Nevada. In New Mexico, in particular, an influx of patients from Texas has already strained provider resources and made it more difficult for New Mexico residents to receive timely care.

“Most patients now must travel out of state, which makes abortion for many people too difficult, too time-intensive, and too costly,” the brief states. “Consequently, many will now be forced to carry unwanted pregnancies to term, resulting in negative health and socioeconomic consequences for both them and their children. And the harms caused by S.B. 8 are rippling well beyond Texas into other states, as people are forced to seek care elsewhere, in many places overwhelming capacity and threatening our own residents’ access to care.”

The brief urges the Supreme Court to stop S.B. 8 from inflicting further irreparable harm. It cites back to past examples from our Nation’s history, particularly related to some states’ resistance to desegregation, in arguing that the Court should not permit states to violate constitutional rights through state laws ostensibly enforced only by private parties. The Court “should not permit Texas to ‘nullif[y] indirectly’ the constitutional rights recognized in Roe and Casey through the ‘evasive scheme’ that it has created in S.B. 8,” the brief argues.

Joining today’s brief, led by Massachusetts Attorney General Maura Healey, are the attorneys general of California, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Maine, Maryland, Massachusetts Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, Washington, and Wisconsin.