



Written by [James Murphy](#) on September 24, 2022

Indiana Judge Blocks New Abortion Restrictions

On Thursday, an Indiana judge issued an injunction blocking the enforcement of a new law that restricts abortion in the state. Senate Bill 1 (SB 1) was passed in special session in the wake of the Supreme Court overturning *Roe v. Wade* in June. Governor Eric Holcomb, a Republican, signed the new legislation on August 5.

Officially, the law first took effect on September 15, only a week before Owen County Judge Kelsey Hanlon issued a preliminary injunction against it.

SB 1 has been widely described by the media as a near-total abortion ban, but the final version that was enacted into law falls far short of that.

As passed by the Indiana Senate, SB 1 would have made abortion illegal in the Hoosier State except in cases of rape, incest, fatal fetal anomalies, or when the mother's life is at risk. But House amendments that were added to the bill created a huge loophole that rendered SB 1 essentially meaningless so far as banning abortion in the state is concerned. As enacted, a licensed physician who performs an abortion "upon request of a pregnant woman" [cannot be held legally liable](#).

However, [SB 1](#) did effectively terminate the licensure of abortion clinics in the state.

Planned Parenthood and other abortion providers challenged the law in court. Hanlon seemed to [agree](#) with the abortionists, as she stated that the plaintiffs are "reasonably likely to prevail on the merits" of the case. She also argued that the abortionists would suffer "irreparable harm" from the new law.

Hanlon did concede, however, that the state has an interest in protecting unborn life: "It is without question that the state has an interest in regulating abortion," she wrote.

The Indiana chapter of the American Civil Liberties Union defended the abortionists.

"We knew this ban would cause irreparable harm to Hoosiers, and in just a single week, it has done just that," said a [statement](#) from the group.

"Indiana lawmakers have made it abundantly clear that this harm, this cruelty, is exactly the reality they had in mind when they passed S.B. 1," the statement continued. "There are 1.5 million people of reproductive age in the state of Indiana, and every single one of them deserve the right to make their own decisions about their bodies, families, and futures."

Indiana Republican lawmaker Liz Brown disagreed vehemently: "The judge blocking IN's abortion law wrote, 'there is reasonable likelihood that this significant restriction of personal autonomy offends the liberty guarantees of the Indiana Constitution.' I must ask: where is the liberty guarantee for unborn children, like this 19-wk-old?"



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Indiana officials promised to quickly appeal the injunction.

“We plan to appeal and continue to make the case for life in Indiana. Our office remains determined to fight for the lives of the unborn, and this law provides a reasonable way to begin doing that,” read a brief statement from Attorney General Todd Rokita.

In fact, Indiana Solicitor General Thomas Fisher has already filed an appeal of the injunction. The attorney general’s office [contends](#) that the plaintiffs’ arguments against the law are based upon a “‘novel, unwritten, historically unsupported right to abortion’ in the state constitution.”

In a separate motion, the state has asked the Indiana Supreme Court to accept an emergency transfer of its appeal of the preliminary injunction.

“Only this Court can provide the final word on this hotly contested, high-profile, pure question of law that is of grave importance to the General Assembly and the citizens of Indiana,” the transfer motion states.

The Indiana Supreme Court is considered a conservative-leaning court, with all five current justices having been appointed by Republican governors.

The Indiana ACLU was prepared for the appeal: “We expected there would be an appeal and we are going to pursue the same argument that we had pursued, that the Indiana constitution recognizes this right — the right to privacy that encompasses abortion rights, which of course this statute violates,” said Ken Falk, legal director of the ACLU of Indiana.

Indiana Right to Life CEO Mike Fichter issued a [statement](#) on the injunction that brought to light the true consequences of Judge Hanlon’s decision to block the law.

“Today’s blockage of Indiana’s new law means over 161 unborn children will continue to lose their lives to abortion every week this injunction stays in effect. We are encouraged by the judge’s acknowledgement of the state’s legitimate interest in protecting unborn babies and are hopeful the blockage will be brief.”



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