



Written by [Alex Newman](#) on July 8, 2011

Stopping Abortion Without the Supreme Court

With more and more Americans becoming pro-life and states across the nation enacting new laws aimed at restricting abortion while ending tax subsidies for abortionists, the question of *Roe v. Wade* and federal courts continues to plague the debate.

Some of the avenues pursued to have government protect the unborn include efforts to pass a constitutional amendment, place pro-life judges on the Supreme Court, or enact various types of legislation. Those remedies, however, have been sought for decades with nothing to show for it but billions of tax dollars showered on [Planned Parenthood and other abortionists and pro-abortion lobbying groups](#).



At the moment, Ohio is [considering](#) a bill that would ban abortions after a heartbeat can be detected — around five to six weeks into a pregnancy. But even some pro-life groups won't get behind the bill because they think federal courts — in keeping with *Roe v. Wade* — will just strike it down after a lengthy and expensive legal battle.

Several states have also [tried to stop the flow of taxpayer dollars](#) to organizations that perform or promote abortion in recent months. All of those states are being forced to defend their legislatures' decisions in court as Planned Parenthood and its pro-abortion allies file a barrage of lawsuits.

But there is another solution, and it's much simpler: Take federal courts out of the picture altogether through federal legislation. Setting aside the fact that even honest abortion proponents acknowledge myriad flaws in the *Roe v. Wade* decision, that ruling could be overturned without the Supreme Court's involvement. And with that roadblock out of the way, states would again be free under the Tenth Amendment to prohibit and punish the deliberate killing of the unborn.

Congress, of course, has the constitutional authority and duty to limit the jurisdiction of the Supreme Court and all lower federal courts — including their purported jurisdiction over state abortion laws. It also has the power and obligation to protect states' republican form of government. So taking abortion and other controversial issues out of the hands of activist federal judges would absolutely be proper.

A bill to do just that, called the "[We The People Act](#)" or [HR 958](#), has been introduced in every Congress since at least 2004. Sponsored by Rep. Ron Paul (R-Texas, pictured above), the legislation would prohibit federal courts from adjudicating cases about state laws on religious freedom and "privacy," including sexual orientation and abortion. It would also punish any judges violating the established limits by removing them from power.

"It is long past time that Congress exercises its authority to protect the republican government of the states from out-of-control federal judges," Rep. Paul [explained](#) when introducing the bill in March of this year. "The only way to resolve controversial social issues like abortion and school prayer is to



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restore respect for the right of state and local governments to adopt policies that reflect the beliefs of the citizens of those jurisdictions.”

Some pro-life critics of the proposal complain that the legislation would still allow states to permit legalized abortion. That is true. But criminal law on everything from robbery and rape to murder is generally a state responsibility in America under the existing Constitution.

It’s also important to note that before the Supreme Court improperly decreed in 1973 that a “right to privacy” trumped state laws criminalizing the killing of unborn children and even the Tenth Amendment, almost all state governments restricted abortion. So, even though some states might initially choose to permit it, abortion would instantly be prohibited in many states that either never repealed their abortion laws or have since passed laws that would enter into force if and when *Roe v. Wade* is undone.

Some states would probably regulate it, allowing abortion in only extreme circumstances. But even though the Act would not constitute an outright nationwide ban on killing pre-born children, it would be absurd for pro-lifers to argue that the overall situation would not be drastically improved. Another bill by Rep. Paul would [define human life](#) for federal purposes as beginning at conception.

In addition to abortion, the We The People Act addresses other social concerns. It would also, for example, ensure that activist federal judges could not abuse the Constitution’s “equal protection” clause to re-define marriage and impose the homosexual agenda on states.

“Congress must launch a preemptive strike against any further federal usurpation of the states’ authority to regulate marriage by removing issues concerning the definition of marriage from the jurisdiction of federal courts,” Rep. Paul explained on the floor of the House. “I would remind my colleagues and the federal judiciary that, under our Constitutional system, there is no reason why the people of New York and the people of Texas should have the same policies regarding issues such as marriage and school prayer.”

Incredibly, despite all of the pro-life and pro-traditional marriage rhetoric offered by Republicans and even many Democrats, the We The People Act does not have a single cosponsor in the current Congress. The legislation is currently sitting in the House Constitution Subcommittee, where it will likely die if grassroots pressure for the bill does not grow.

While virtually every GOP presidential candidate claims to be pro-life — promising to pick sympathetic judges for the Supreme Court and speak up for the unborn — Rep. Paul’s bill would be a concrete, constitutional step in that direction. Rather than waiting around for another few decades hoping for a favorable court ruling, the We The People Act would undo *Roe v. Wade* and allow states to protect the unborn — immediately.

For pro-lifers frustrated by the seemingly insurmountable obstacles imposed by *Roe v. Wade*, it is a viable avenue. The bill is short and simple, but very powerful.

“If we had 218 congressmen such as Ron Paul in the House of Representatives, we could change the course of the country in short order,” [wrote](#) pastor and Constitution Party presidential candidate Chuck Baldwin in a 2006 column about the legislation. “In the meantime, guess what? There are no cosponsors ... So, out of 435 members of the House of Representatives, there is exactly one congressman who is willing to do more than just talk pro-life! Now, can you see the problem?”



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