



Written by [Raven Clabough](#) on April 16, 2013

Judge Rules to Keep Sole Mississippi Abortion Clinic Open, For Now

A federal judge blocked the closure of the only abortion clinic in the state of Mississippi on Monday. U.S. District Judge Daniel P. Jordan III [extended](#) an injunction that he had issued several months ago that blocks the state from closing the clinic while a 2012 state law causing the closure is being challenged. The state law requires all OB-GYNs who perform abortions at Jackson Women's Health Organization to have privileges to admit patients to a local hospital.



Fox News [reported](#), "Jordan's ruling comes three days before the state Department of Health was scheduled to hold a license revocation hearing for the clinic over its acknowledged inability to get the admitting privileges." The ruling has temporarily prevented Mississippi from becoming the first state in the country to be without an abortion clinic.

In his ruling, Jordan [writes](#) that the clinic has sought the injunction because it has "exhausted all available avenues to comply" with the law. Since Mississippi has indicated it will revoke the clinic's license after a scheduled administrative hearing on Thursday, Jordan writes, "The Court concludes the Plaintiffs are entitled to preliminary injunctive relief."

"The State has plainly informed the Clinic that it will be closed pursuant to a statute that appears to fail the undue-burden test," Jordan says in his ruling. "Considering this, and the other articulated and un rebutted harms, the Court concludes that the irreparable injuries alleged are sufficiently imminent to justify preliminary injunctive relief at this time."

Abortion advocates are celebrating the ruling. "Today's court decision should serve as a reminder to extremist politicians that the Constitution and the rights and protections therein are available to all, including women and their right to private decision-making," said Jennifer Riley-Collins, executive director of ACLU-MS. "Unfortunately, we are seeing politicians across the country attempting to push through similarly drastic measures. ACLU-MS will remain vigilant in its support of reproductive justice in Mississippi."

Michelle Movahed, the lead attorney with the Center for Reproductive Rights, which is fighting the law, contends that the Mississippi law is a backdoor attempt at banning abortion. "This is really the first time it's been so clear that not a single abortion-providing facility in the state could comply," said Movahed. "States aren't allowed to ban abortion, and that's what Mississippi effectively did."

But supporters of the law argue that the measure helps ensure that doctors who perform abortions meet appropriate standards to protect women who undergo the procedure.

"This is a health care facility, so it is regulated," said Mississippi Rep. Sam Mims, the Republican author of the bill. "This legislation deals nothing with a woman's right to have an abortion."



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While pro-abortion supporters assert that the measure seeks to undermine abortion rights, the National Right to Life committee asserts that the struggle underscores the clinic's inability to meet minimum standards. "The situation here is that this is one facility, and it's the only facility in Mississippi, and they can't comply with minimum standards," [said](#) Mary Spaulding Balch, director for state legislation for the National Right to Life Committee.

Jordan's ruling asserts that the state cannot close the clinic while a federal lawsuit is pending to challenge the 2012 law. Meanwhile, a trial date has not been set.

Neither of the two abortion doctors who perform most of the abortions at the Jackson clinic has local admitting privileges, prompting the clinic to file suit over the law, contending that it is intended to rid the state of abortion.

Admitting privileges are often difficult to obtain as some hospitals do not allow out-of-state physicians to admit patients, while others associated with religious groups that are against elective abortions.

One hospital response indicated, "The nature of your proposed medical practice is inconsistent with this Hospital's policies and practices as concerns abortion and, in particular, elective abortion."

Clinic owner Diane Derzis told the Associated Press that the clinic has been unable to get admitting privileges at any of the Jackson-area hospitals. Derzis believes it is because hospitals do not want anti-abortion protesters outside their facilities.

Still, even without admitting privileges, patients are permitted to be transferred to a hospital emergency room if necessary. The clinic indicates that in such a case, the hospital would need to remain in contact with the physician who transferred the patient to the emergency room, despite not having admitting privileges.

The Department of Health had alerted Jackson Women's Health Organization in January to its intention to revoke the clinic's license. The clinic had been permitted to remain open as it awaited this week's hearing, which is now cancelled as a result of the judge's decision.

"Closing its doors would — as the state seems to concede in this argument — force Mississippi women to leave Mississippi to obtain a legal abortion," Judge Jordan wrote in his opinion. The state's position in this case, he adds, "would result in a patchwork system where constitutional rights are available in some states but not others."

Of course, not everyone recognizes abortion as a constitutional right. Supreme Court Justice Antonin Scalia [asserted](#) that there is "nothing in the Constitution" about abortion and that if abortion advocates want a right to abortion, they should seek legislative measures, not concoct a constitutional right to abortion that simply isn't there.

Debate over abortion "rights" is becoming more heated, as states are beginning to adopt more pro-life measures. Other states have adopted similar laws to Mississippi's 2012 law, including Alabama, Arizona, Kansas, and Tennessee.

Just last month, North Dakota adopted a law that bans most abortions once a fetal heartbeat is detected, approximately six weeks into pregnancy. North Dakota lawmakers also approved a \$400,000 legal fund to defend the state's new measures.



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