

# Background and arbitrary and unreasonable state action

[Government](#)



**Background** In 1973 the Supreme Court affirmed in *Roe v. Wade* a woman's constitutional right to make her own medical decisions. HB2 was an abortion law passed by the state of Texas that restricted women's access to abortion clinics and similar providers. This was a TRAP law, an acronym for Targeted Regulation of Abortion Providers. The law also banned abortions after 20 weeks and set unnecessary regulations for providers and clinics to meet. One provision made it so that doctors performing the abortions have admitted privileges requirements. Another provision made it so that abortion clinics must comply with standards for ambulatory surgical centers, even though an abortion is nowhere near as serious or risky as most surgeries.

**Case Movement** In 2014 the abortion provider *Woman's Whole Health* sued the state of Texas on the grounds that the law is unconstitutional, yet the law still went into effect. On April 6, 2014, *Whole Woman's Health* filed another lawsuit, now hoping to block the admitting-privileges provision that applied to their clinic in McAllen, Texas. Along with that they hoped to block the surgical center provision throughout Texas.

The District Court granted declaratory and injunctive relief against the enforcement of the two provisions of this law. The U. S. Court of Appeals for the Fifth Circuit affirmed the District Court's dismissal of unlawful delegation, equal protection and arbitrary and unreasonable state action claims, partially reversing the injunction. Before H. B. 2 could take effect, the petitioners, or *Women's Whole Health*, requested a stay from the Supreme Court.

On June 29, 2015, the court granted a temporary stay by a 5-4 vote, which later became an indefinite stay. The question is, " should a court's "

substantial burden' analysis take into account the extent to which laws that restrict access to abortion services actually serve the government's stated interest in promoting health?" Petitioner: Women's Whole

Health Respondent: John Hellerstedt a Commissioner with the Texas Department of State Health Services. The case was granted on November 13, 2015 It was argued on March 2, 2016 And decided by the Supreme Court on June 27, 2016 Argument for Both Sides Women's Whole Health: The petitioners argued that H. B. 2 denied women the equal protection that they deserve. Stating that there was unlawful, delegated law making authority, and arbitrary, unreasonable state action.

An abortion is not considered an unsafe procedure so the needs for these regulations is not there. HB2 would affect over 75% of abortion providers in the state of Texas. Women would have to drive further, wait longer, spend more and possibly lose access to abortions. The State of Texas: The State of Texas argued that the plaintiffs, or Women's Whole Health, failed to show that the laws placed a substantial burden on women seeking an abortion. They also argue that women who find that they can not reach of an abortion can go to New Mexico, where abortion laws are more lenient. Texas argues that these regulations protect women and make the abortion process safer.

The Vote! For Women's Whole Health: For The State of Texas: US Supreme Court Verdict The supreme court's verdict states that the HB2 laws posed an undue and unnecessary burden on women seeking an abortion, proving that the provisions were unconstitutional. Justice Stephen G. Breyer delivered the verdict from the 5-3 vote, holding that the provisions of HB2 issues do not

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medically benefit women enough to justify the burdens they impose on women looking to exercise their right to an abortion. The provision about the admitting privileges requirement of H. B.

2 did not better women's safety but did place a roadblock in front of women seeking an abortion by shutting down around half of Texas' abortion clinics. The additional layer of "protection for women" added no benefit to women's health. Questions