

Abortion Ban

[House Committee Substitute for HBs 908 and 757](#)

[Rep. Lichtenegger](#) (R-146, Cape Girardeau) and [Rep. Christofanelli](#) (R-105, St. Peters)

This extreme, unconstitutional bill is the latest instance of politicians intruding on the doctor-patient relationship.

This bill is an extreme measure that would ban abortion altogether after 22 weeks of pregnancy and substitute politicians' opinions for a physician's medical judgment. These bills impose new reporting requirements, civil fines, and criminal penalties on physicians.

So-called “20-week bans” like HCS HB 908 and 757 are categorically unconstitutional. The U.S. Supreme Court has consistently held for more than 40 years that states may not ban abortion prior to viability.

- The Court has also made clear that states are prohibited from drawing a line at a particular gestational age to establish fetal viability. The Court has insisted that the determination of viability must be left to the physician's judgment.
- In addition, the narrow health exceptions contained in 20-week bans are unconstitutional at *any* stage of pregnancy, even after viability, because they do not adequately allow physicians to exercise their medical judgment to protect the pregnant person's health in all circumstances.
- Similar legislation in Idaho and Arizona was struck down by the U.S. Court of Appeals for the Ninth Circuit. Arizona appealed the decision, but the Supreme Court refused to hear the case and the law remains permanently enjoined.

This bill does not meet the U.S. Supreme Court's new standard. The Supreme Court's most recent decision on abortion rights, *Whole Woman's Health v. Hellerstedt*, reaffirmed that abortion is a constitutionally-protected right and set a new standard that abortion restrictions must meet: **the benefit of a given abortion restriction must outweigh the burden it imposes.**

- *Whole Woman's Health* reaffirmed the more than forty years of Supreme Court precedent holding that abortion is a constitutional right and that a law is unconstitutional if it places an undue burden on the right to have an abortion before viability.
- Under *Whole Woman's Health*, courts must apply heightened scrutiny to abortion restrictions. Courts cannot give “uncritical deference” to the facts supporting the government's position; courts must actually consider whether credible evidence supports the legislative fact-finding and other evidence presented by the state.
- This bill fails the most basic constitutional test, repeated for more than four decades, and most recently in *Whole Woman's Health*: states simply cannot ban abortion prior to viability.

This measure is rooted in opposition to legal abortion, not credible medical evidence.

- The medical community measures pregnancy from the date of last menstrual period (LMP), but these bills disregard that consensus and date a pregnancy from fertilization instead. Consequently, a 22-week LMP pregnancy would be considered “20 weeks” under this bill.
- Scientific evidence does not support anti-abortion advocates’ claims that 22 weeks is the point in pregnancy at which fetuses can feel pain.
- The world’s leading medical institutions that establish standards for reproductive health care, including the American College of Obstetricians and Gynecologists (ACOG), agree that before 26 weeks of gestation, the fetus does not possess the structural and functional neurological capacity to experience pain.
- This bill is the latest instance of politicians’ substituting their extreme views for medical and scientific judgment.

Instead of pushing anti-scientific, unconstitutional legislation, lawmakers should focus on measures to improve Missourians’ health.

- The legislature should work together to pass common-sense policies that research shows will benefit Missourians’ health, like comprehensive, medically accurate, inclusive sex education, increased access to contraception, and Medicaid expansion.
- Passing an unconstitutional bill that will cost the state money to defend in court is a poor use of taxpayers’ time and money.