

FREEDOM FROM RELIGION *foundation*

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February 11 , 2020

The Honorable Anna G. Eshoo and The Honorable Michael Burgess
Health Subcommittee Chairwoman and Ranking Member
House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Re: Testimony in support of the Women's Health Protection Act

Dear Chairwoman Eshoo and Ranking Member Burgess:

We are writing on behalf of the Freedom From Religion Foundation (FFRF) to urge the Subcommittee to vote in favor of the Women's Health Protection Act (WHPA). FFRF is a national nonprofit organization with more than 30,000 members across the country. FFRF protects the constitutional separation between state and church and educates about nontheism.

FFRF started in Madison, Wisconsin, in the late 1970s. Our focus on state-church separation stemmed from the experience of FFRF's principal founder, Anne Nicol Gaylor, fighting for abortion and contraceptive rights, which opened her eyes to the dangers of religious control of government. She realized that the battle for women's rights and reproductive rights will not be won until the root cause of the denial of those rights—the unwarranted influence of religion over our laws and social policy—was addressed. Passing the WHPA will directly protect women's health and will help to keep our laws secular, as is required by the U.S. Constitution.

Disturbingly, Wisconsin has a 170-year-old law making it a felony for a doctor to perform an abortion.¹ Though presently unenforceable thanks to *Roe v. Wade*, the 1849 law is still on the books. If the Supreme Court overturns *Roe*, Wisconsin will treat doctors as criminals for providing comprehensive healthcare to women.

Wisconsin is not alone. Several other states have similar “trigger” laws criminalizing abortion in the event that *Roe* is overturned. The sad reality is that

¹ Shamane Mills, *170-Year-Old Wisconsin Abortion Ban Still On The Books*, Wisconsin Public Radio (May 1, 2019), available at <https://www.wpr.org/170-year-old-wisconsin-abortion-ban-still-books>.

many of these state legislatures, including Wisconsin's, are actively restricting abortion access rather than safeguarding it.

Since Brett Kavanaugh replaced the pro-choice swing voter Justice Anthony Kennedy on the Supreme Court, anti-abortion legislatures have been rushing to pass unconstitutional abortion restrictions to bring *Roe* before the Supreme Court. They believe the change in "personnel" warrants a change in constitutional rights.

In the first three months of 2019, state legislators proposed 304 abortion restrictions. Last year, eight states passed bans based on gestational age (often before the pregnancy has been detected), and Alabama passed an outright ban. State legislators in Tennessee, Pennsylvania and South Carolina are currently advancing bans on abortion after six weeks of pregnancy.

We cannot rely on these state legislatures to remove even the most draconian nineteenth-century anti-abortion laws. There is thus a dire need for Congressional action to protect this fundamental right to women's reproductive healthcare and autonomy, and to avoid the return to a pre-*Roe* era.

The opposition to safe, legal abortions is motivated almost entirely by religion. That makes abortion an issue of state-church separation. The Establishment Clause of the First Amendment requires that our laws have a secular, not a religious, legislative purpose. It was improper for states to pass religiously motivated abortion bans in the nineteenth century, and in our enlightened, religiously diverse nation it is even more clearly improper to legislate Christian nationalism today.

Today, more than one-quarter of Americans, 26%, are religiously unaffiliated.² The U.S. Congress should not allow zealous state legislators to impose their religious beliefs onto women in their state, including those who are not religious at all. Please support the WHPA.

Very truly,



Annie Laurie Gaylor & Dan Barker
Co-Presidents

ALG/DB:rdj

² Robert P. Jones & Daniel Cox, *America's Changing Religious Identity*, Public Religion Research Institute (Sept. 6, 2017), available at www.prrri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf.