

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2021-2022 Regular Session**

SB 1245 (Kamlager)  
Version: March 14, 2022  
Hearing Date: April 26, 2022  
Fiscal: Yes  
Urgency: No  
AM

**SUBJECT**

Los Angeles County Abortion Access Safe Haven Pilot Program

**DIGEST**

This bill establishes the Los Angeles County Abortion Access Safe Haven Pilot Program, subject to appropriation by the Legislature, for the purpose of expanding and improving access to the full spectrum of sexual and reproductive health care, including abortion, in the County of Los Angeles. The bill requires funds allocated for the program to be used to administer a pilot project to support innovative approaches and patient-centered collaborations to safeguard patient access to abortions, regardless of residency, as provided.

**EXECUTIVE SUMMARY**

Reproductive rights are under attack across the nation. Since 1973, the U.S. Supreme Court has continuously held that it is a constitutional right to access abortion before fetal viability; however, the Court is reviewing a case that directly challenges this precedent. Some legal scholars are predicting that due to the current conservative make-up of the Court these long-standing legal protections may be overturned or weakened. If this were to happen, people in roughly half the country may lose access to abortion services. New tactics to deny people access are also underway as evidenced by the recent legislation in Texas. This bill strives to ensure that those seeking abortion services in the County of Los Angeles will have the information and support needed to exercise their fundamental rights.

The bill is sponsored by Planned Parenthood Affiliates of California and Planned Parenthood Affiliates of Los Angeles. It is supported by various reproductive health advocacy organizations. It is opposed by the California Catholic Conference and two groups against the fundamental right to access abortion. The bill was voted out of the Senate Health Committee on a vote of 8-2.

**PROPOSED CHANGES TO THE LAW**

Existing federal law:

- 1) Holds that the federal constitution's implied right to privacy extends to an individual's decision about whether or not to have an abortion. (*Roe v. Wade* (1973) 410 U.S. 113.)
- 2) Authorizes the government to impose restrictions on abortion as long as those restrictions do not create an undue burden on an individual's right to choose to terminate a pregnancy. (*Planned Parenthood of Southeastern Pennsylvania v. Casey* (1992) 505 U.S. 833.)

Existing state law:

- 1) Holds that the state constitution's express right to privacy extends to an individual's decision about whether or not to have an abortion. (*People v. Belous* (1969) 71 Cal.2d 954.)
- 2) Establishes the Reproductive Privacy Act and provides that the Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions. (Health & Saf. Code §§ 123460 et. seq., § 123462.)
  - a) Prohibits the state from denying or interfering with an individual's fundamental right to choose to bear a child or to choose to obtain an abortion, with specified exceptions. (Health & Saf. Code § 123462(c).)
  - b) Provides that every person has the fundamental right to choose to bear a child or to choose to obtain an abortion, with specified exceptions. (Health & Saf. Code § 123462(b).)

This bill:

- 1) Provides that the Legislature finds and declares all of the following:
  - a) abortion care is a constitutional right and an integral part of comprehensive sexual and reproductive health care;
  - b) in May 2019, Governor Gavin Newsom signed a Proclamation on Reproductive Freedom reaffirming California's commitment to ensuring access to reproductive health care services, including abortion;
  - c) if the U. S. Supreme Court overturns the protections under *Roe v. Wade* or allows a previability ban to remain in place, people in over one-half of the states in this country, over 36,000,000 women and other people who may become pregnant, will lose access to abortion care;

- d) California is committed to building upon existing protections to the right to abortion and implementing innovative and bold programs and policies to truly be a reproductive freedom state;
  - e) the County of Los Angeles accounts for over one-third of all abortions in California and is home to 28 percent of the state's population;
  - f) the County of Los Angeles has made a commitment to health equity and is preparing to become a haven for reproductive health care access;
  - g) the State of California should create a pilot project in the County of Los Angeles for the purpose of advancing reproductive and sexual health care, specifically abortion, in the county; and
  - h) on January 25, 2022, the Board of Supervisors of the County of Los Angeles unanimously passed a motion by Supervisors Holly J. Mitchell and Sheila Kuehl to ensure women's access to quality reproductive health care services. Specifically, the board instructed specified county departments, in coordination with reproductive health advocates, to report back with recommendations on actions that should be taken to enable the county and its partners to provide the full array of sexual and reproductive health services, including abortion, to all county residents who need them, and to ensure that the county continues to lead in its commitment of protecting reproductive rights for all who come to the county for these services.
- 2) Establishes the Los Angeles County Abortion Access Safe Haven Pilot Program, subject to appropriation by the Legislature, for the purpose of expanding and improving access to the full spectrum of sexual and reproductive health care, including abortion, in the County of Los Angeles.
  - 3) Requires funds allocated for the program to be used to administer a pilot project to support innovative approaches and patient-centered collaborations to safeguard patient access to abortions, regardless of residency.
  - 4) Authorizes funds to be used for the purpose of implementing recommendations from the County of Los Angeles, including, but not limited to, any of the following, as designated by the county:
    - a) providing medically accurate education and training tools to the community;
    - b) providing training to health care workers and abortion providers;
    - c) building secure infrastructure;
    - d) countering misinformation campaigns and providing medically accurate information to health care providers and patients;
    - e) coordinating care and patient support services; and
    - f) advancing and improving access to abortion.

## COMMENTS

### 1. Stated need for the bill

The Author of the bill writes:

This year, the U.S. Supreme Court is reviewing a direct challenge to the constitutional right to abortion established in *Roe v. Wade*. Should the Court uphold Mississippi's ban, thereby overturning *Roe*, people in over half of the states in the country – over 36 million women and other people who may become pregnant – will lose access to abortion care. It is already happening. People in Texas have been denied protections under *Roe* since that state's extreme abortion ban went into effect last year. According to a report released by the Guttmacher Institute, the number of out-of-state patients who would find their nearest abortion provider in California would increase from 46,000 to 1.4 million – an increase of nearly 3,000%. Senate Bill 1245 will support a funded pilot program for Los Angeles County to build on the statewide efforts to advance California as a "Reproductive Freedom" State. The program will house innovative approaches and patient-centered collaborations to safeguard access to abortion for patients coming to Los Angeles County, regardless of where a patient resides.

### 2. The ability to access abortion is under attack across the nation

#### *a. Access to abortion is a constitutional right under Roe v. Wade*

*Roe v. Wade*, (1973) 410 U.S. 113, is the landmark U.S. Supreme Court decision holding that the implied constitutional right to privacy extends to an individual's decision whether to terminate a pregnancy, while allowing that some state regulation of abortion access could be permissible. The plaintiff, unable to afford travel to another state to obtain an abortion, challenged the Texas statute making it a crime to perform an abortion unless an individual's life was at stake. The Court struck down the Texas law, finding for the first time that the constitutional right to privacy is "broad enough to encompass a woman's decision whether or not to terminate her pregnancy." At the same time, the high court also defined two compelling state interests that would satisfy restrictions on an person's right to choose to terminate a pregnancy: 1) states may regulate the abortion procedure after the first trimester of pregnancy in ways necessary to promote an individual's health; and 2) after the point of fetal viability outside of the womb, a state may, to protect the potential life of the fetus, prohibit abortions that are not necessary to preserve a person's life or health.

#### *b. Ongoing legal challenges to Roe v. Wade*

*Roe v. Wade* has been one of the most debated Supreme Court decisions, and its application and continued validity have frequently been challenged in the courts. Most

significantly, in *Planned Parenthood of Southeastern Pennsylvania v. Casey* (1992) 505 U.S. 833, the Court reaffirmed the basic holding of *Roe v. Wade*, yet also permitted states to impose restrictions on abortion as long as those restrictions do not create an undue burden on a person's right to choose to terminate a pregnancy.

Exactly what constitutes an undue burden remains a point of frequent legal contention. Recently, the Court applied the standard in *Casey* to strike down a Texas law that required any facility performing abortions to meet the state requirements for an ambulatory surgical center and also required any doctor performing abortions to have admitting privileges at a hospital within 30 miles. (*Whole Woman's Health v. Hellerstedt* (2016) 579 U.S. 582; 136 S. Ct. 2292). Since, in practice, almost no abortion facility or provider could meet these mandates, the Texas law had the effect of dramatically restricting access to abortion services in the state. Although the Court reaffirmed that ruling last year in *June Medical Services, L.L.C. v. Russo* (2020) \_\_\_U.S.\_\_\_ (140 S.Ct. 2103), the outcome in that case relied upon the vote of Justice Ruth Bader Ginsburg, who subsequently passed away, and the concurrence of Chief Justice John Roberts, who joined the majority solely on the basis of *stare decisis* – the doctrine that courts must ordinarily follow prior precedent.

Meanwhile, as the post-*Roe* jurisprudence has evolved, a minority of the U.S. Supreme Court's justices have at various times indicated their belief that *Roe v. Wade* should be overturned altogether. (See, e.g., *Webster v. Reprod. Health Servs.* (1989) 492 U.S. 490.) With President Donald Trump's appointment of Justices Neil Gorsuch, Brett Kavanaugh, and Amy Coney Barrett to the high court, it may be that a majority for that view now exists. Were the U.S. Supreme Court to overturn *Roe*, state governments or the federal government would then be free to impose additional restrictions on abortion or even outlaw it entirely.

This scenario may be closer than ever before, currently pending at the U.S. Supreme Court is the case of *Dobbs v. Jackson Women's Health* where the court is deciding whether all pre-viability prohibitions on elective abortions are unconstitutional. (*Dobbs v. Jackson Women's Health* (2021) \_\_\_U.S.\_\_\_ (141 S.Ct. 2619).) Oral arguments were heard in December of 2021 and a decision is expected by the end of the Court's term in June 2022. Some legal experts are predicting that the conservative members of the U.S. Supreme Court will use this opportunity to weaken or completely overturn *Roe*. If this happens, as many as 21 states would most definitely ban abortion and five others likely would due to the political make-up of their governments and historical actions.<sup>1</sup> According to the Guttmacher Institute, nine states still have abortion bans in their statutes from before *Roe* was decided, and 12 other states currently have trigger bans that would go into effect if it is overturned.<sup>2</sup> The Guttmacher Institute estimates that if

---

<sup>1</sup> Elizabeth Nash, *26 States are Certain or Likely to Ban Abortion Without Roe: Here's Which Ones and Why*, Guttmacher Institute (Oct, 2021) available at <https://www.guttmacher.org/article/2021/10/26-states-are-certain-or-likely-ban-abortion-without-roe-heres-which-ones-and-why> (as of Apr. 8, 2022).

<sup>2</sup> *Ibid.*

all the 21 states expected to enact a total ban on abortion actually do, the number of patients who would find their nearest clinic in California would increase by 2,923 percent from 46,000 to 1.4 million.<sup>3</sup>

*c. New challenges to exercising one's constitutional right to an abortion*

Recently, Texas perniciously enacted a law with an enforcement scheme that was designed to avoid judicial scrutiny of its clearly unconstitutional provisions.<sup>4</sup> This law prohibits a physician from knowingly performing or inducing an abortion on a pregnant person if the physician detected a fetal heartbeat for the unborn child, as specified, or failed to perform a test to detect a fetal heartbeat. (Tex. Health & Safety Code § 171.201 et seq. (enacted through Texas Senate Bill 8).) This law essentially places a near-categorical ban on abortions beginning six weeks after a person's last menstrual period, which is before many people even realize they are pregnant and occurs months before fetal viability.<sup>5</sup> The law provides that any person, other than an officer or employee of a state or local governmental entity in Texas, may bring a civil action to enforce its provisions, which includes liability of \$10,000 plus costs and fees if a plaintiff prevails while a defendant is prohibited from recovering their own costs and fees if they prevail. (*Id.* at (subd. (b) & (i).)

Texas abortion providers, led by Whole Women's Health and others, filed a case in an attempt to stop the law before it took effect seeking pre-enforcement review of the law and an injunction barring its enforcement. On certiorari from the Fifth Circuit, the Supreme Court held that a pre-enforcement challenge to the law under the U.S. Constitution may only proceed against certain defendants but not others.<sup>6</sup> The court did not address whether the law was constitutionally sound. However, the court's ruling essentially insulated the private enforcement of the law from challenge, allowing the law to remain in effect.

The inability to challenge the law pre-enforcement allows it to stand as an ominous threat to all persons seeking or performing an abortion and results in many Texans' being denied the ability to exercise their constitutionally protected right under *Roe v. Wade*, as evidenced by that fact abortions in Texas decreased by 60 percent in the first

---

<sup>3</sup> *If Roe v. Wade Falls: Travel Distance for People Seeking Abortion*, Guttmacher Institute, available at [If Roe v. Wade Falls: Travel Distance for People Seeking Abortion | Guttmacher Institute](#) (as of Apr. 9, 2022).

<sup>4</sup> See *Whole Woman's Health v. Jackson* (2021) 142 S. Ct. 522, at 543 (conc. opn. Roberts, C.J., Breyer, Sotomayor, & Kagan) that states Texas has passed a law that is contrary to *Roe* and *Casey* because it has "the effect of denying the exercise of what we have held is a right protected under the Federal Constitution" and was "designed to shield its unconstitutional law from judicial review." (footnote omitted).

<sup>5</sup> See *Whole Woman's Health v. Jackson* (2021) 141 S. Ct. 2494, at 24998 (dis. opn. Sotomayor, Breyer, & Kagan).

<sup>6</sup> *Whole Woman's Health v. Jackson* (2021) 142 S. Ct. 522, 530.

month after Texas Senate Bill 8 took effect.<sup>7</sup> Clinics in states such as Louisiana, Oklahoma, New Mexico, Kansas, and Colorado are reporting that large numbers of patients from Texas are coming into their clinics.<sup>8</sup> Portentously, other states are already copying the Texas law. Idaho enacted a similar law via Idaho Senate Bill 1309; however, the implementation of that bill has been stayed by the Idaho Supreme Court pending further action of the court and to allow the parties to the case to file their respective briefs.<sup>9</sup> Missouri has gone even further than Texas, seeking to allow civil suits to punish those who would help a person obtain an abortion out of state.<sup>10</sup> Similar legislation has been introduced in Arizona, Florida, Minnesota, and Wisconsin as well, but these bills are less likely to be enacted.<sup>11</sup> Just this month, Oklahoma enacted Senate Bill 612, which makes it a felony to perform an abortion unless it is a medical emergency.<sup>12</sup>

### 3. California is a Reproductive Freedom State

#### *a. California law protects an individual's right to access abortion*

The California Supreme Court has found the state constitution's express right to privacy extends to an individual's decision about whether or not to have an abortion. (*People v. Belous* (1969) 71 Cal.2d 954.) Further, California statutory law provides under the state Reproductive Privacy Act that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions and that the state is prohibited from denying or interfering with a person's fundamental right to choose to bear a child or to choose to obtain an abortion, with certain limited exceptions. (Health & Saf. Code § 123462.) In response to the numerous attacks on reproductive rights across the nation, Governor Newsom issued a proclamation in May 2019 reaffirming California's commitment to making reproductive freedom a fundamental right.<sup>13</sup> In September 2021, more than 40 organizations came together to form the California Future Abortion Council (CA FAB) to identify barriers to accessing abortion services and to recommend policy proposals to support equitable and affordable access for not only Californians

---

<sup>7</sup> Shafkat Anwar, *Abortions in Texas fell 60% in the first month after its new law took effect*, NPR (Feb. 10, 2022) available at <https://www.npr.org/2022/02/10/1079963293/abortions-in-texas-fell-60-in-the-first-month-after-its-new-law-took-effect> (as of Apr. 8, 2022).

<sup>8</sup> Elenor Klibanoff, *Six months in, "no end in sight" for Texas' new abortion law*, The Texas Tribune (Mar. 1, 2022) available at <https://www.texastribune.org/2022/03/01/texas-abortion-law-supreme-court/> (as of Apr. 8, 2022).

<sup>9</sup> Order Granting Motion to Reconsider, Idaho Supreme Court, Docket No. 49615-2022, Apr. 8, 2022 available at <https://coi.isc.idaho.gov/docs/Supreme/49615-2022/040822%20Order%20Granting%20Motion%20to%20Reconsider.pdf>.

<sup>10</sup> Alison Durkee, *Idaho Enacts Law Copying Texas' Abortion Ban – And These States Might Be Next*, Forbes (Mar. 23, 2022) available at <https://www.forbes.com/sites/alisdurkee/2022/03/23/idaho-enacts-law-copying-texas-abortion-ban---and-these-states-might-be-next/?sh=340dc49425c0> (as of Apr. 8, 2022).

<sup>11</sup> *Ibid.*

<sup>12</sup> Sean Murphy, *Oklahoma Governor signs bill to make abortion illegal*, Los Angeles Times (Apr. 12, 2022) available at <https://www.latimes.com/world-nation/story/2022-04-12/oklahoma-governor-signs-bill-to-make-abortion-illegal> (as of Apr. 13, 2022).

<sup>13</sup> California Proclamation on Reproductive Freedom (May 31, 2019) available at [CAP16-20190531083736](https://www.sos.ca.gov/press-releases/2019/05/31/20190531083736).

but all who seek care in the state. If the U.S. Supreme Court overturns or fundamentally weakens *Roe v. Wade* California may become a safe haven for people seeking abortion services. The Guttmacher Institute estimates that if all the 21 states expected to enact a total ban on abortion actually do, the number of patients who would find their nearest clinic in California would increase by 2,923 percent from 46,000 to 1.4 million.<sup>14</sup> According to CA FAB, in order for California to live up to its proclamation of being a reproductive freedom state it must be prepared and ready to serve anyone who comes to California seeking abortion services.<sup>15</sup>

*b. This bill establishes the Los Angeles County Abortion Access Safe Haven Pilot Program*

This bill seeks to address some of the policy proposals recommended by CA FAB in order to support Californians, and those coming to California, in accessing their fundamental right to abortion services.<sup>16</sup> The bill establishes the Los Angeles County Abortion Access Safe Haven Pilot Program, subject to appropriation by the Legislature, for the purpose of expanding and improving access to the full spectrum of sexual and reproductive health care, including abortion, in the County of Los Angeles. Allocated funds would be used to administer the pilot project to support innovative approaches and patient-centered collaborations to safeguard patient access to abortions, regardless of the patient's residency. The bill authorizes funds to be used for the purpose of implementing recommendations from the County of Los Angeles, as designated by the County. These recommendations include providing medically accurate education and training tools to the community, providing training to health care workers and abortion providers, building secure infrastructure, countering misinformation campaigns and providing medically accurate information to health care providers and patients, coordinating care and patient support services, and advancing and improving access to abortion.

4. Statements in support

Planned Parenthood Affiliates of California, a sponsor of the bill, writes:

In 2022, there have been over 500 abortion restrictions introduced across 41 states. Also this year, the U.S. Supreme Court will decide on a case that directly challenges the constitutional right to abortion established under *Roe v. Wade*. If the Court upholds Mississippi's abortion ban, thereby overturning *Roe*, people in over half of the states across the country – over 36 million women and other people who may become pregnant – will lose access to abortion. In fact, millions of Texans are already

---

<sup>14</sup> *If Roe v. Wade Falls: Travel Distance for People Seeking Abortion*, Guttmacher Institute, available at [If Roe v. Wade Falls: Travel Distance for People Seeking Abortion | Guttmacher Institute](#) (as of Apr. 9, 2022).

<sup>15</sup> *Recommendations to Protect, Strengthen, and Expand Abortion Care in California*, Cal. Future Abortion Council (Dec. 2021) at 2.

<sup>16</sup> *See Id.* at 5-13.



experiencing this lack of access. Since Texas' S.B. 8 went into effect last fall, Texans needing abortion have been denied. The ban in Texas disproportionately impacts Black, Brown, Indigenous and other people of color, people with low-income, people living in rural areas, and other historically marginalized communities who are most likely to be forced to continue pregnancies against their will, rather than be able to travel to already overburdened clinics in neighboring states, like Oklahoma – making matters worse, Oklahoma politicians have since introduced several extreme abortion bans.[...]

Los Angeles County is home to 28% of the state's population and accounts for over a third of all abortions that take place in California. The prevalence of abortion in Los Angeles County likely reflects better access in the city than other parts of California and even other states in the nation. This prevalence, coupled with the County's role as a major metropolitan transportation hub with multiple airports, makes it's highly likely that nonresidents will come to Los Angeles County for the abortion care they will not be able to access in their home state or county. We know that people are already seeking care in California, with over 80 abortion patients visiting a health center in California for care each month. [...]

As states continue to ban and restrict abortion across the nation, California remains a safe place to access care, but we must invest in our infrastructure, our community-based clinics and organizations, and our provider networks to ensure that the access we are committed to is actually available. This bill will ensure that the State and LA County is prepared for the increased need that already exists and will continue to increase as more hostile states refuse their residents of their constitutional rights.

##### 5. Statements in opposition

The Right to Life League writes in opposition:

On behalf of the Right to Life League, its 52 member clinics, centers and maternity homes across the state and tens of thousands of pro-life voters in your districts, I urge you to reject SB 1245.

SB 1245 proposes to fund a pilot program to expand abortion access in Los Angeles County. Because SB 1245 is so one-sided in its funding, making no funding accommodation for access to childbirth services, it blatantly violates the California constitution.

The unequal financial treatment of abortion and childbirth by the state is unconstitutional, pursuant to *Committee to Defend Reproductive Rights v. Myers*, 29 Cal.3d 252 (1981).

Today, more than forty years later, liberal elements in the legislature advance SB 1245 favoring state funding of abortion over childbirth. It mandates a state-funded pilot program with the specific intention of increasing access to abortion in Los Angeles county. SB 1245 does not provide such increased access to assist those who choose childbirth.

The state's attempt to financially favor one reproductive choice over another was unconstitutional in 1981 and remains unconstitutional today. SB 1245 is unconstitutional.

### **SUPPORT**

Planned Parenthood Affiliates of California (sponsor)  
Planned Parenthood Affiliates of Los Angeles (sponsor)  
ACCESS Reproductive Justice  
American College of Obstetricians and Gynecologists  
California Latina's for Reproductive Justice  
California Nurse Midwives Association  
California Women's Law Center  
NARAL Pro-Choice California  
National Center for Youth Law  
Women's Foundation California

### **OPPOSITION**

California Catholic Conference  
Right to Life League  
One individual

### **RELATED LEGISLATION**

#### **Pending Legislation:**

SB 1142 (Caballero, 2022) requires the California Health and Human Services Agency (CHHS) to establish an internet website where the public can find information on abortion services in this state, as provided, and requires the Commission on the Status of Women and Girls (Commission) to provide grants to nonprofit organizations that assist pregnant people who are low income or face other financial barriers, as specified. This bill is currently pending in the Senate Appropriations Committee.

SB 1375 (Atkins, 2022), among other things, authorizes nurse practitioners (NPs) who are qualified to independently practice to provide abortion services by aspiration techniques in the first trimester without having to work under existing prescribed

standardized procedures and makes conforming changes. This bill is currently pending in the Senate Appropriations Committee.

AB 1666 (Bauer-Kahan, 2022) prohibits the enforcement of out-of-state fetal heartbeat abortion restriction laws in California. AB 1666 currently pending in the Assembly.

AB 2134 (Weber, 2022), among other things, permits Medi-Cal providers to apply for grant funding to provide abortion and contraception at no cost to certain uninsured or underinsured individuals, as provided. AB 2134 is currently pending in the Assembly Health Committee.

Prior Legislation:

SB 245 (Gonzalez, Ch. 11, Stats. 2022) prohibits cost-sharing, restrictions, delays, prior authorization and annual or lifetime limits on all abortion services, including follow-up services.

SB 24 (Leyva, Ch. 740, Stats. 2019) requires student health centers located on a University of California or California State University campus that provide primary health care services to students to offer abortion by medication onsite, as provided.

**PRIOR VOTES:**

Senate Health Committee (Ayes 8, Noes 2)

\*\*\*\*\*