

Chloé White, ACLU-VT Policy Director
Testimony on H. 57, Senate Health and Welfare Committee
April 17, 2019

Madam Chair and committee members, thank you for inviting the ACLU to speak on this important bill. We fully support H. 57 and urge you to pass the bill out of committee.

This bill safeguards the right to abortion and codifies what is already legal in the state. It ensures that at every point in a pregnancy, the health of the person is paramount and drives important, personal medical decisions. Vermont has always followed and applied *Roe v. Wade*, which recognizes that abortion is included in the fundamental right to privacy. The future of *Roe v. Wade* and access to safe and legal reproductive care is under threat, however, as was made clear in Justice Kavanaugh's recent dissent in *June Medical Services v. Gee*,¹ a case which could have closed nearly all abortion clinics in Louisiana and essentially dismantled *Roe*. In his dissent, Justice Kavanaugh effectively ignored the holding of *Whole Women's Health v. Hellerstedt* (a 2016 Supreme Court case that invalidated a Texas law similar to the one at issue in Louisiana)² and would have allowed a restrictive admitting privileges law to go into effect, contrary to established precedent.³ It was only through Justice Roberts's fifth vote that the law was kept on hold, at least for now. Given the very real threat to reproductive liberty at the federal level, it is imperative that Vermont codify this right in state statute.

This sort of legislation is not unprecedented. In 2017, Oregon passed the Reproductive Health Equity Act, which safeguards the right to abortion from interference by public entities.⁴ Illinois is currently considering the Reproductive Health Act, which provides that every pregnant individual has a fundamental right to carry or terminate that pregnancy.⁵ At least nine

¹ *June Medical Services, L.L.C., et al. v. Rebekah Gee*, 586 U.S. ___ (2019) (Kavanaugh, J., dissenting).

² 579 U.S. __ (2016).

³ See Mark Joseph Stern, *Brett Kavanaugh Just Declared War on Roe v. Wade*, SLATE (Feb. 7, 2019), <https://slate.com/news-and-politics/2019/02/brett-kavanaugh-june-medical-services-louisiana-john-roberts.html>.

⁴ HB 3391, 79th Leg. Assemb., Reg. Sess. (Or. 2017).

⁵ HB 2495, 101st Gen. Assemb., Reg. Sess. (Ill. 2019).



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states have statutes explicitly protecting the right to abortion.⁶ Vermont should join these states and enshrine the protection in statute.

In conclusion, I want to again stress our full support for this bill, which simply creates a legal framework for what is already legal, but not codified, in this state. It preserves the status quo and affirms Vermont's dedication to liberty and privacy. Thank you again for having me, and I welcome any questions you may have.

⁶ Guttmacher Institute, *Abortion Policy in the Absence of Roe* (April 1, 2019), <https://www.guttmacher.org/state-policy/explore/abortion-policy-absence-roe>.