



TO: House Community & Family Advancement Committee  
FROM: Gary Daniels, Chief Lobbyist, ACLU of Ohio  
DATE: March 10, 2015  
RE: House Bill 69

To Chairman Derickson, Vice Chair Ginter, Ranking Minority Member Howse and members of the House Community & Family Advancement Committee, my name is Gary Daniels, Chief Lobbyist for the American Civil Liberties Union of Ohio ("ACLU of Ohio") and I welcome this opportunity to present opponent testimony on House Bill 69.

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This is, I believe, the fourth time the ACLU of Ohio has testified against the so-called Heartbeat Bill. Like all previous times, our message remains the same – if this legislation passes, we will file a lawsuit and all indications are we will prevail. Make no mistake, HB 69 is a radical departure from anything the U.S. Supreme Court has previously endorsed with regard to abortion restrictions.

You have heard before this bill is carefully crafted in such a way the United States Supreme Court will have no virtually no choice but to uphold the law and overturn *Roe v. Wade*, the ultimate goal of supporters. But such statements ignore reality.

The chances such a bill ever makes it to the Supreme Court are miniscule and those chances are getting smaller with each passing day. Ironically, what supporters of these bills are more likely to accomplish is further affirmation of *Roe v. Wade* by federal courts. It is already happening.

North Dakota passed a law in 2013 preventing abortions if a fetus has a "detectable heartbeat". The language of that North Dakota law is fundamentally no different than what is proposed here. That law was struck down in April 2014 and is now on appeal.

Arkansas's approach was slightly less extreme. Its legislature also passed a "heartbeat" law interpreted as outlawing abortions after 12 weeks. Just like North Dakota's law, and as predicted, this one was rebuffed by the district court and is also on appeal.

The chances of one of these lawsuits reaching the Supreme Court are grimmer than ever. But what if, for the sake of conversation, one of them does? Proponents would have you believe Justice Kennedy cannot wait to cast a decisive swing vote backing their efforts. Where they find such solace, I have no idea. Justice Kennedy, as well as a majority of the rest of the Supreme Court justices, have given zero indication they are ready to or want to jettison an important underpinning of Roe v. Wade – the viability of the fetus. A law that ignores this is simply doomed to failure in our courts.

Of course, the ACLU of Ohio is not the only party to reach such a conclusion. A litany of people, organizations and legislators – none of whom can be described nor want to be described as supporters of reproductive rights – fully agree with this assessment and have chosen not to support these efforts in Ohio or around the country.

Members of the committee, if you feel this bill is immune enough to legal challenge by the ACLU of Ohio you will surely vote for its passage. On the other hand, if you see this bill for what it is - a risky roll of the dice far more likely to create case law damaging to the anti-choice movement, with little hope of ever reaching the U.S. Supreme Court, and resulting in years of litigation and hundreds of thousands of dollars of legal fees - then you should reject House Bill 69 and leave these intensely personal decisions where they belong—with Ohio's families.