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Mississippi's People Should Choose its Abortion Laws

Lynn Fitch, Guest columnist

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When the Supreme Court hears from the parties in *Dobbs v. Jackson Women's Health Organization* in its next term, the arguments will concern the constitutionality of a Mississippi abortion law protecting life after 15 weeks of pregnancy. At stake will be the right of the people to speak through their elected leaders on the protection of vulnerable life and women's health.

The Supreme Court recognized a right to terminate pregnancy in 1973, and the court has been clear that the right is not absolute. But that isn't the end of the story. The people act on legitimate interests through their elected legislators when they pass laws and their elected governors when they sign them. The people's elected representatives protect women's health by ensuring that women have the information to make informed decisions and have appropriate levels of medical care. They protect the sanctity of life by, for example, prohibiting abortions based solely on account of a baby's disability.

States also make laws to protect the environment and consumers; to support religious expression, free speech and the right to bear arms; to promote access to education and healthcare; to define crimes and set criminal penalties and much more. In every instance, the legislative body must carefully balance the competing and legitimate interests of the people they represent. The elected executive, similarly accountable to the people, ensures that the people's interests are given effect and provides a check by either signing or vetoing the law.

In the wisdom of the Founding Fathers, the Supreme Court was given the role of providing guideposts to the legislatures to help them secure legitimate interests without infringing on core constitutional rights.

When it comes to regulating abortion, the nearly 50-year history of Court precedent since *Roe* has not provided clear guidance. Rules based on the viability of the life of the unborn child are fluid. It was long considered impossible for a baby to survive outside the womb before 28 weeks. But now, we read with increasing regularity about babies born at 21 weeks who survive and go home to celebrate their first Christmas with their families.

Rapid advances in medical technology have made the benchmark of viability increasingly unstable. If we know anything about the march of science, medicine will not retreat; it will continue to advance. This makes the question before the Supreme Court in Dobbs all the more important: Can the people, acting through their state legislature, establish restrictions on abortion—restrictions that protect legitimate interests of the state—before this uncertain and disintegrating line called viability?

As Mississippi's attorney general, I have the duty to defend the laws of my state, and here I do so gladly. We ask the court simply to affirm the right of the people to protect its legitimate interests and to provide clarity on how they may do so.