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**Mississippi's 15-Week Gestational Limit on Abortion
is Mainstream Compared to European Laws**

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Abstract: In 2018, Mississippi passed the Gestational Age Act, limiting elective abortion to 15 weeks. Mississippi’s 15-week law was invalidated by the lower federal courts and will be considered by the United States Supreme Court during their next term, which begins in October 2021. A comparative analysis between Mississippi and European abortion laws finds gestational limits on elective abortion—terminations performed without restriction as to reason—prior to 15 weeks, and more often at 12 weeks, are common and the norm for the majority of European countries. This comparison found 47 out of 50 European countries analyzed in this report either do not allow elective abortion (8) or limit elective abortion to 15 weeks or earlier (39), whereas 0 out of 50 states in the U.S. limit elective abortion to 15 weeks.

This report compares gestational limits in Mississippi’s Gestational Age Act with gestational limits in the abortion laws of the European community. The goal is to determine how Mississippi’s late-term abortion restriction stands in comparison to European norms.

The sample group for this project included a total of 50 European countries, independent states, and semi-autonomous regions with populations exceeding 1 million.¹

Currently, United States Supreme Court precedent allows for elective abortions through all nine months of pregnancy, and only permits states to enact limitations on abortion on demand after viability, a legal definition which has not kept pace with science and is usually marked around 24 weeks.² Various states have passed legislation seeking to place gestational limits on elective abortion, including Mississippi, where in 2018 the legislature passed the Gestational Age Act, which limited elective abortion to 15 weeks.³ Challengers to Mississippi’s 15-week law were successful in invalidating the law at the district court and the Fifth Circuit Court of Appeals affirmed. The Supreme Court of the United States recently agreed to review the invalidation of Mississippi’s 15-week law and more broadly will consider whether *all* pre-viability limitations on abortion are unconstitutional.

This report finds that Mississippi’s law limiting elective abortion to 15 weeks is among the mainstream in comparison to European limitations on elective abortion. The majority of European countries that allow elective abortion limit it to 12 weeks. This finding demonstrates that Mississippi’s law limiting elective abortion to 15 weeks is neither extreme nor outside the norm in comparison to European practice.

¹ There are discrepancies among global governments and organizations on the exact number of European countries and the definition of a European country geographically, politically, and culturally. Various sources count between 44 and 51 European countries. This study analyzed 50 European countries, independent states, and regions and addressed the abortion policies of the United Kingdom separately, as Northern Ireland’s abortion law differs from Great Britain’s.

² The majority opinion of Justice Blackmun in *Roe v. Wade* stated, “Viability is usually placed at about seven months (28 weeks) but may occur earlier, even at 24 weeks.” <https://supreme.justia.com/cases/federal/us/410/113/#tab-opinion-1950137>. Survival at 22 weeks, due to advanced standards and methods of care, is now recognized as achievable. See <https://www.bbc.com/news/health-50144741>.

³ Miss. Code Ann. § 41-41-191

Terminology and Method of Comparison

Not all countries or statutes use the same terminology when drafting limitations on elective abortion. Some statutes do not even specify a method of measurement, simply using the vague term “weeks of pregnancy” without indicating a precise method measuring the duration of pregnancy.

This report uses gestation to compare restrictions on elective abortion that are based on duration of pregnancy. For those countries that use a different measurement of age, such as conception or fertilization or pregnancy, this study converts the measurement of age into gestation by adding two weeks to date back to the woman’s last menstrual period. This report interprets “weeks of pregnancy” to mean the most common measurement of pregnancy, gestation.⁴

European Gestational Limitations on Elective Abortion

Out of 50 European countries, independent states, or regions analyzed, 42 European countries allow abortion without restriction as to reason, otherwise known as elective abortion or abortion on demand. The remaining 8 European countries, including Great Britain and Finland, require *some* reason to obtain an abortion ranging from most protective of life (to save the life of the mother or completely prohibited) to most permissive of abortion (socioeconomic grounds) with various reasons in between (e.g., physical health, mental health)⁵.

Out of the 42 European countries that allow elective abortion, 39 countries limit elective abortion to 15 weeks’ gestation or earlier. The majority of these 39 European countries set gestational limits for elective abortion at or before 12 weeks’ gestation.

- 5 European countries limit elective abortion to 10 weeks’ gestation
 - Croatia, Portugal, Serbia, Slovenia, Turkey
- 27 European countries limit elective abortion to 12 weeks’ gestation
 - Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, France, Georgia, Greece, Hungary, Ireland, Kyrgyzstan, Latvia, Lithuania, Montenegro, Moldova, Northern Ireland, North Macedonia, Norway, Russia, Slovakia, Switzerland, Ukraine
- 2 European countries limit elective abortion between 12 and 14 weeks’ gestation

⁴ This interpretation is consistent with data compiled from WHO’s Global Abortion Policies Database. However, other organizations, such as the Center for Reproductive Rights and its World Abortion Laws Map sometimes interprets “weeks of pregnancy” to mean from conception, and adds an additional two weeks to the gestational limit (see France, Serbia, Slovenia).

⁵ These 8 countries are: Andorra, Finland, Lichtenstein, Malta, Monaco, Poland, San Marino, and Great Britain.

- Austria (90 days, or 3 months), Italy (90 days)

- 5 European countries limit elective abortion to 14 weeks' gestation
 - Belgium, Germany, Luxembourg, Romania, Spain

Only 3 of the 42 European countries that allow elective abortion, permit elective abortion after 15 weeks' gestation. The three European countries that permit elective abortion past 15 weeks are:

- Iceland (22 weeks)
- Netherlands (24 weeks)
- Sweden (18 weeks)

Conclusion

No European country allows elective abortion through all nine months of pregnancy as is permitted in the United States, where Supreme Court precedent only allows states to regulate it after viability. In comparison, 47 out of 50 European countries analyzed in this report either do not allow elective abortion (8) or limit elective abortion to 15 weeks or earlier (39), whereas 0 out of 50 states in the U.S. have a currently enforceable law limiting elective abortion to 15 weeks. The Mississippi late-term abortion restriction at 15 weeks is not extreme by any measure when compared with European law.

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Sources:

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