



FOR IMMEDIATE RELEASE
November 12, 2021
#21-44

CONTACT: Samantha Fisher
615.741.5860
Samantha.Fisher@ag.tn.gov

**TENNESSEE ABORTION WAITING PERIOD STANDS; ALL LEGAL
CHALLENGES EXHAUSTED**

Nashville- Tennessee Attorney General Herbert H. Slatery III announced today that the constitutionality of Tennessee’s 48-hour waiting period for abortions is no longer subject to question. The opportunity for the plaintiffs to seek further review from the U.S. Supreme Court has passed, so the Sixth Circuit’s ruling stands and the legal battle is over.

More than six years ago, a group of abortion providers challenged the statutory waiting period, alleging that it violated a woman’s right to have an abortion.

The district court agreed with the challengers, held the law unconstitutional, and stopped state officials from enforcing it. After a divided three-judge panel of the Sixth Circuit declined to stay that judgment pending the State’s appeal, the State’s attorneys sought and obtained review by the full Sixth Circuit.

In August the full Court reversed the district court’s judgment and that of its own panel. It upheld Tennessee’s waiting-period, concluding that it “is facially constitutional” because it is “supported by a rational basis” and “is not a substantial obstacle to abortion for a large fraction of women seeking pre-viability abortions in Tennessee.” The Court explained that the Supreme Court’s decision in *Planned Parenthood of Southeastern Pennsylvania v. Casey*, which upheld Pennsylvania’s similar waiting-period law, “compel[led] this result saying the waiting period “resulted from a decades-long democratic process” that included a state constitutional amendment.

“This law was on the books for five years before the district court enjoined it. The Sixth Circuit took the unusual step of having the full court review the district court decision and that of its own panel. We are grateful that the Court recognized the validity of a law passed by the people’s representatives and did not substitute its own judgment for the policy decision made by the legislature and the Governor,” said General Slatery.

###