

## ACLU NEWS ALERT

For Immediate Release

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### **Trial Begins in Tennessee Abortion Lawsuit**

The trial in the ACLU/Planned Parenthood Federation of America lawsuit, filed on behalf of Planned Parenthood Association of Nashville and Memphis Planned Parenthood, is scheduled to begin on Monday, October 26 at 9:00 a.m. in Judge Hamilton Gayden's courtroom (5th floor) in Metro Courthouse.

Below is a fact sheet describing the status of the lawsuit.

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### **FACT SHEET ON TENNESSEE ABORTION STATUTE CHALLENGES**

A lawsuit filed on behalf of Planned Parenthood Association of Nashville and Memphis Planned Parenthood by the American Civil Liberties Union (ACLU) of Tennessee and Planned Parenthood Federation of America – the first such challenge to a state law following the United States Supreme Court's decision in Planned Parenthood v. Casey – is moving forward in Tennessee to a scheduled trial on Monday, October 26, 1992. The challenge to Tennessee's onerous abortion-access statute has already survived several procedural maneuvers by the State of Tennessee and anti-choice proponents and a round of extraordinary appeals.

The ACLU-Planned Parenthood challenge was set for trial shortly after Davidson County Circuit Court Judge Hamilton Gayden issued a Temporary Restraining Order on July 31, 1992 prohibiting District Attorneys General in the State of Tennessee from enforcing the statute. That order was subsequently upheld, pending trial, by a State Appellate Court on September 6, 1992 following an extraordinary appeal by the State of Tennessee.

Three Nashville physicians, who claim to be pro-choice, have been allowed to intervene in a parallel lawsuit filed by the Knoxville, Tennessee Center for Reproductive Health in the Davidson County Chancery Court. Chancellor C. Allen High also ruled that two anti-choice abortion counselors "failed to establish any interest sufficient" to justify intervention in that Court case on

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behalf of the "unborn." In the Chancery court action, Chancellor High denied temporary relief which was also upheld in the Tennessee Appellate Courts following an extraordinary appeal.

On September 24, 1992, a Motion to Consolidate the two cases filed by the State of Tennessee was denied by the presiding judge for Davidson County on the grounds that "the parties and issues in these cases are sufficiently different."

The ACLU-Planned Parenthood lawsuit was filed on July 14, 1992 in the Circuit Court for Davidson County, Tennessee. It seeks to invalidate provisions of Tennessee abortion law that require all abortions, after three months of pregnancy, be performed in a hospital; that all women who obtain abortions be residents of the State of Tennessee; that a minor inform both her parents of her intent to have an abortion; that mandate doctor only biased counseling; and that require all women seeking abortions to wait two full days after being provided with biased counseling information prior to securing an abortion; The State of Tennessee has notified the court that it does not intend to defend the parental notification and residency requirements.

The restrictions being challenged have been part of Tennessee's criminal code since 1973 but have not been enforced. The ACLU-Planned Parenthood lawsuit challenges the state law as a violation of a woman's right to liberty, privacy, procreational autonomy, and due process as guaranteed by the Tennessee Constitution. The complaint also alleges that the Tennessee law violates the Federal Constitution even under the relaxed standard approved by the United States Supreme Court in Planned Parenthood v. Casey.

The attorneys handling the ACLU/Planned Parenthood lawsuit are Barry Friedman, Irwin Venick, Beth Thompson, Beth Otten, Dara Klassel, Roger Evans, Steve Shapiro, and Edward Kaplan.