



## Poelker v. Doe

432 U.S. 519 (1977)

**Country:** United States

**Region:** Americas

**Year:** 1977

**Court:** Supreme Court

**Health Topics:** Health care and health services, Health systems and financing, Poverty, Sexual and reproductive health

**Human Rights:** Right to due process/fair trial, Right to social security

### Facts

The Respondent brought a class action suit alleging constitutional rights violations after her request for a nontherapeutic abortion was refused by a public hospital in St. Louis. Doe's inability to obtain an abortion resulted from two factors, a personally motivated policy directive by the Mayor which prohibited the performance of abortions in the city hospitals "except when there was a threat of grave physiological injury or death to the mother", and the Hospital's practice of staffing largely from a Jesuit-operated university institution opposed to abortion. Proceedings were brought against the Mayor of St. Louis and the Director of Health and Hospitals.

The Court of Appeals held that Doe's inability to obtain an abortion denied the constitutional right of indigent women to choose to terminate their pregnancy as created in *Roe v. Wade*, 410 U.S. 113 (1973). It also held that providing funding for childbirth but not for nontherapeutic abortions was discriminatory, and that according non-indigent women greater access to such abortions infringed on equal protection.

### Decision and Reasoning

The Court examined whether the hospital's refusal to fund nontherapeutic abortions while funding childbirth was constitutionally valid. The Court affirmed the decision in *Maher v. Roe*, 432 U.S. 464 (1977) and held that "the Constitution does not forbid a State or city, pursuant to democratic processes, from expressing a preference for normal childbirth" as St. Louis had done in denying public funding for nontherapeutic abortions. The Court noted that the Mayor's personal position on abortion was irrelevant to the decision as he was an elected official responsible for the people of St. Louis.

### Decision Excerpts

"For the reasons set forth in my dissent in *Maher v. Roe*, ante, p. 482, I would affirm the Court of Appeals. Here the fundamental right of a woman freely to choose to terminate her pregnancy has been infringed by the city of St. Louis through a deliberate policy based on opposition to elective abortions on moral grounds by city officials. While it may still be possible for some indigent women to obtain abortions in clinics or private hospitals, it is clear that the city policy is a significant, and in some cases insurmountable, obstacle to indigent pregnant women who cannot pay for abortions in those private facilities. Nor is the closing of St. Louis' public hospitals an isolated instance with little practical significance. The importance of today's decision is greatly magnified by the fact that during 1975 and the first quarter of 1976 only about 18% of all public hospitals in the country provided abortion services, and in 10 States there were no public hospitals providing such services." 432 U.S., p. 523.

"Because the city policy constitutes "coercion [of women] to bear children which they do not wish to bear," *ante*, p. 523, and the cases following it require that the city show a compelling state interest that justifies this infringement upon the fundamental right to choose to have an abortion. "[E]xpressing a preference for normal childbirth," *ante*, at 521, does not satisfy that standard. *Roe* explicitly held that during the first trimester no state interest in regulating abortions was compelling, and that during the second trimester the State's interest was compelling only insofar as it protected maternal health. 410 U. S., at 162-164. Under *Roe*, the State's "important and legitimate interest in potential life," *id.*, at 163 "which I take to be another way of referring to a State's "preference for normal childbirth" becomes compelling only at the end of the second trimester. Thus it is clear that St. Louis' policy preference is insufficient to justify its infringement on the right of women to choose to have abortions during the first two trimesters of pregnancy without interference by the State on the ground

of moral opposition to abortions. St. Louis' policy therefore "unduly burdens the right to seek an abortion,"  
Bellotti v. Baird, 428 U. S. 132, 147 (1976).â€• 432 U.S., p. 524 -525.

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