It remains good general law that pre-enforcement challenges to criminal and regulatory legislation will often be unripe for judicial consideration because of uncertainty of enforcement,[547] because the plaintiffs can allege only a subjective feeling of inhibition or fear arising from the legislation or from enforcement of it,[548] or because the courts need before them the details of a concrete factual situation arising from enforcement in order to engage in a reasoned balancing of individual rights and governmental interests.[549] But one who challenges a statute or possible administrative action need demonstrate only a realistic danger of sustaining an injury to his rights as a result of the statute's operation and enforcement and need not await the consummation of the threatened injury in order to obtain preventive relief, such as exposing himself to actual arrest or prosecution. When one alleges an intention to engage in conduct arguably affected with a constitutional interest but proscribed by statute and there exists a credible threat of prosecution thereunder, he may bring an action for declaratory or injunctive relief.[550] Similarly, the reasonable certainty of the occurrence of the per-

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ing). In Cramp v. Board of Pub. Instruction, 368 U.S. 278 (1961), a state employee was permitted to attack a non-Communist oath, although he alleged he believed he could take the oath in good faith and could prevail if prosecuted, because the oath was so vague as to subject plaintiff to the "risk of unfair prosecution and the potential deterrence of constitutionally protected conduct." Id. at 283–84. *See also* Baggett v. Bullitt, 377 U.S. 360 (1964); Keyishian v. Board of Regents, 385 U.S. 589 (1967).

[547] *E.g.*, Poe v. Ullman, 367 U.S. 497 (1961) (no adjudication of challenge to law barring use of contraceptives because in 80 years of the statute's existence the state had never instituted a prosecution). *But compare* Epperson v. Arkansas, 393 U.S. 97 (1987) (merits reached in absence of enforcement and fair indication state would not enforce it); Vance v. Amusement Co., 445 U.S. 308 (1980) (reaching merits, although state asserted law would not be used, although local prosecutor had so threatened; no discussion of ripeness, but dissent relied on *Poe*, id. at 317–18).

[548] *E.g.*, Younger v. Harris, 401 U.S. 37, 41–42 (1971); Boyle v. Landry, 401 U.S. 77 (1971); Golden v. Zwickler, 394 U.S. 103 (1969); O'Shea v. Littleton, 414 U.S. 488 (1974); Spomer v. Littleton, 414 U.S. 514 (1974); Rizzo v. Goode, 423 U.S. 362 (1976). In the context of the ripeness to challenge of agency regulations, as to which there is a presumption of available judicial remedies, the Court has long insisted that federal courts should be reluctant to review such regulations unless the effects of administrative action challenged have been felt in a concrete way by the challenging parties, i.e., unless the controversy is "ripe." *See*, of the older cases, Abbott Laboratories v. Gardner, 387 U.S. 136 (1967); Toilet Goods Ass'n, Inc. v. Gardner, 387 U.S. 158 (1967); Gardner v. Toilet Goods Ass'n, Inc., 387 U.S. 167 (1967). More recent cases include Reno v. Catholic Social Services, Inc., 509 U.S. 43 (1993); Lujan v. National Wildlife Federation, 497 U.S. 871, 891 (1990).

[549] *E.g.*, California Bankers Ass'n v. Schultz, 416 U.S. 21 (1974); Hodel v. Virginia Surface Mining & Recl. Ass'n, 452 U.S. 264, 294–297 (1981); Renne v. Geary, 501 U.S. 312, 320–323 (1991).

[550] Steffel v. Thompson, 415 U.S. 452 (1974); Wooley v. Maynard, 430 U.S. 705, 707–708, 710 (1977); Babbitt v. United Farm Workers, 442 U.S. 289, 297–305 (1979) (finding some claims ripe, others not). *Compare* Doe v. Bolton, 410 U.S. 179, 188–189 (1973), *with* Roe v. Wade, 410 U.S. 113, 127–128 (1973). *See also* Planned Parenthood v. Danforth, 428 U.S. 52 (1976); Colautti v. Franklin, 439 U.S. 379 (1979).