

Judge says Arizona's abortion ban can take effect (Update)

July 30 2012, by JACQUES BILLEAUD

(AP) — Arizona's ban on abortions starting at 20 weeks of pregnancy is poised to take effect this week as scheduled after a federal judge ruled Monday that the new law is constitutional.

U.S. District Judge James Teilborg said the statute may prompt a few pregnant women who are considering abortion to make the decision earlier. But he said the law is constitutional because it doesn't prohibit any women from making the decision to end their pregnancies.

The judge also wrote that the state provided "substantial and well-documented" evidence that an unborn child has the capacity to feel pain during an abortion by at least 20 weeks.

Republican Gov. Jan Brewer signed the measure into law in April, making Arizona one of 10 states to enact types of 20-week bans.

Arizona's ban, set to take effect Thursday, prohibits abortions starting at 20 weeks of pregnancy except in medical emergencies. That is a change from the state's current ban at viability, which is the ability to survive outside the womb and which generally is considered to be about 24 weeks. A normal pregnancy lasts about 40 weeks.

The New York-based Center for Reproductive Rights said it and another group that challenged the law plan to file an emergency appeal of Monday's decision with the 9th U.S. Circuit Court of Appeals.

"Today's decision casts aside decades of legal precedent, ignoring constitutional protections for reproductive rights that have been upheld by the United States Supreme Court for nearly 40 years and threatening women's health and lives," said Nancy Northup, the center's president and CEO.

Maricopa County Attorney Bill Montgomery, who was sued as part of the challenge, said there was no telling whether the appeals court would prevent the law from taking effect. Commenting on Monday's decision, Montgomery said, "I thought it was sound legal reasoning and reached the appropriate conclusion."

Teilborg held a hearing Wednesday on a request from abortion-rights groups that he temporarily block the law's enforcement.

The groups' lawyer said during the hearing that the ban crosses a clear line on what U.S. Supreme Court rulings permit, and it intrudes on women's health decisions at a key point in pregnancy. Montgomery argued the state Legislature was justified in enacting the ban to protect the health of women and to shield fetuses from pain.

A second Arizona anti-abortion law enacted earlier this year also faces a court challenge. That law would bar public funding for non-abortion health care provided by abortion doctors and clinics.

The anti-abortion laws are among many approved by Arizona's Republican-led Legislature. The other laws include restrictions on clinic operations, mandates for specific disclosures and a prohibition on a type of late-term abortion.

Attorney Janet Crepps of the Center for Reproductive Rights argued at Wednesday's hearing that under Supreme Court decisions starting with the 1973 *Roe vs. Wade* ruling that legalized abortion, states can only

regulate how abortions are performed, not ban them, before a fetus is viable.

Montgomery said that not implementing the 20-week ban would doom fetuses that might be saved due to advances in medicine.

While North Carolina has long had a 20-week ban, Nebraska in 2010 was the first state to recently enact one. Five more states followed in 2010: Alabama, Idaho, Indiana, Kansas and Oklahoma.

Along with Arizona, Georgia and Louisiana approved 20-week bans this year, though Georgia's law doesn't take effect until 2013.

The Center for Reproductive Rights said none of the 20-week bans have so far been blocked by courts.

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