

Judge blocks Kansas' ban on 2nd-trimester abortion procedure

June 24 2015, by John Hanna

A judge on Thursday blocked Kansas' first-in-the-nation ban on an abortion procedure that opponents describe as dismembering a fetus, concluding that the law would likely present too big of an obstacle for women seeking to end their pregnancies.

Shawnee County District Court Judge Larry Hendricks sided with New York-based Center for Reproductive Rights, agreeing to put the law on hold while he considers a lawsuit filed on behalf of two Kansas abortion providers.

The center argued that the law would force women to undergo riskier procedures or forgo abortions. It also noted that the procedure is used in 95 percent of second-trimester abortions nationwide, and said previous U.S. Supreme Court rulings don't allow a state to ban the most common method for terminating a pregnancy.

Hendricks said those arguments would likely prevail in court, even though alternative abortion methods still would be legal.

"The alternatives do not appear to be medically necessary or reasonable," Hendricks said from the bench Thursday.

The law was supposed to take effect July 1.

Kansas Gov. Sam Brownback, a Republican and strong abortion opponent, was disappointed by the decision and believes "Kansas law

should protect human dignity for all Kansans," spokeswoman Eileen Hawley said.

The state argued that it has an interest in protecting the dignity of human life and promoting more humane alternatives. But Janet Crepps, senior counsel for the Center for Reproductive Rights, told the judge that such an argument would enable the Legislature "to assert the same interests and ban every single abortion method."

The judge also said the Kansas Constitution independently protects abortion rights at least as much as the U.S. Constitution. Attorneys on both sides said such a ruling, if upheld, could eventually allow state courts to strike down restrictions affirmed by the U.S. Supreme Court.

The new law would ban doctors from using forceps, clamps, scissors or similar instruments on a live fetus to remove it from the womb in pieces. Such instruments are commonly used in dilation and evacuation procedures, but Kansas legislators said using them on a live fetus is inhumane.

The new law includes exceptions to protect the life and physical health of a woman, and wouldn't apply if doctors ensure a fetus dies before using the instruments.

The law arose from model legislation pushed by the National Right to Life Committee. Kansas was the first state to enact it. Oklahoma legislators approved a similar law, but it doesn't take effect until November.

Dilation and evacuation procedures accounted for about 9 percent of all abortions in Kansas last year, according to the state health department. The state already bans most abortions at or after the 22nd week of pregnancy, and 89 percent last year occurred before the 13th week.

The Center for Reproductive Rights filed the lawsuit on behalf of Dr. Herbert Hodes and Dr. Traci Nauser, a father and daughter who perform abortions at a health center in Overland Park, a Kansas City suburb.

The state's lawyers argued that doctors could avoid violating the ban and still perform safe abortions in many ways, such as first giving the fetus a lethal injection or by severing its umbilical cord. But the lawsuit said there have been few studies of the safety of the alternative methods and that lethal injections for the fetus could increase of nausea, vomiting and infection in women.

Crepps, the center's attorney, said the ban would result in "forced experimentation" on women seeking second trimester abortions.

Jessie Basgall, attorney for Kansans for Life, said after the ruling that she believed the state would prevail.

"This is just whether or not the law is going to stand while we actually litigate the merits of this law," she said.

But Laura McQuade, the president and CEO of Planned Parenthood of Kansas and Mid-Missouri, said her group and abortion-rights advocates would work to see that "this ban is unable to harm even one Kansas woman."

More information: The new Kansas law: bit.ly/1K53VBL

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