

Iowa court blocks 72-hour waiting period for abortion

June 29 2018, by David Pitt

The Iowa Supreme Court on Friday struck down a law requiring a 72-hour waiting period for women seeking an abortion, ruling that the restriction was unconstitutional and that "autonomy and dominion over one's body go to the very heart of what it means to be free."

Justices noted that the waiting period could force delays, increase costs and in some cases prevent a woman from legally obtaining an abortion. The court's 5-2 decision said the mandatory delay violated the Iowa Constitution because the restrictions on women weren't "narrowly tailored to serve a compelling interest of the state."

"At stake in this case is the right to shape, for oneself, without unwarranted governmental intrusion, one's own identity, destiny, and place in the world. Nothing could be more fundamental to the notion of liberty," the justices wrote.

The ruling comes in a lawsuit filed by Planned Parenthood of Iowa and the American Civil Liberties Union of Iowa, which sued the state shortly after the law was approved last year. The groups argued that a woman's right to an abortion was among the core privacy rights protected by the Iowa Constitution and federal law.

Attorneys for Planned Parenthood and the state had no immediate comment on Friday's ruling. The waiting period is part of a larger state law that bans most abortions after 20 weeks of pregnancy. The 20-week ban is in effect and isn't part of the legal challenge.

In its Friday ruling, the high court noted it wasn't concluding that a woman's right to terminate a pregnancy was unlimited. The ruling, written by Chief Justice Mark Cady, outlined the difficulty courts have in reaching decisions on abortion.

"We do not, and could not, endeavor to discern the precise moment when a human being comes into existence. We have great respect for the sincerity of those with deeply held beliefs on either side of the issue.

"Nevertheless, the state's capacity to legislate pursuant to its own moral scruples is necessarily curbed by the constitution. The state may pick a side, but in doing so, it may not trespass upon the fundamental rights of the people," Cady wrote.

Two justices, Edward Mansfield and Thomas Waterman, disagreed. Mansfield's dissenting opinion argued that the court's majority opinion forgoes "accepted methods of constitutional interpretation," and instead at times relies "on an undertone of moral criticism toward abortion opponents."

Mansfield is on President Donald Trump's list of possible nominees to the U.S. Supreme Court.

Ilyse Hogue, president of the national abortion-rights group NARAL Pro-Choice America, said the Friday ruling upholds precedent, the rights of Iowa women and their "dignity and respect." She said those issues should be considered by Iowa Sen. Charles Grassley, chairman of the Senate Judiciary Committee, when advancing any U.S. Supreme Court nominee chosen by President Donald Trump to replace retiring Justice Anthony Kennedy.

Planned Parenthood had argued that Iowa lawmakers were imposing more severe burdens on women seeking abortions "than almost all other

[states](#)." The group noted that the Iowa Supreme Court had recognized privacy as a fundamental right in previous cases, and argued that abortion was a core privacy right that should be treated like other fundamental rights.

Iowa Solicitor General Jeffrey Thompson, who defended the law for the state, argued that protecting unborn life was a state interest of the highest order and that abortion wasn't a fundamental right. He said the waiting period provides time for women to consider information that [abortion](#) providers are required to provide, including an opportunity to view an ultrasound or hear a fetal heartbeat.

"The informed choice provision does not remove the ultimate decision from the woman. Rather, it reflects the hope of the legislature that after receiving the information and taking some time to consider it, some women will choose to continue a pregnancy that they might otherwise have terminated," he wrote in court documents.

Planned Parenthood's attorney, Alice Clapman, argued that women who seek abortions "already make careful decisions. They already contend with massive obstacles in carrying out their decision." She said the mandatory waiting period would make those obstacles far worse.

Iowa lawmakers passed legislation earlier this year prohibiting abortions after a fetal heartbeat could be detected. That law was put on hold earlier this month pending a legal challenge.

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