

Judge hears arguments in challenge to Georgia abortion law

September 23 2019, by Kate Brumback

Opponents of Georgia's restrictive new abortion law told a judge on Monday that it violates Supreme Court precedent and should be blocked, while the state argued the law should be allowed to take effect as planned.

The law signed in May by Republican Gov. Brian Kemp bans abortions once a fetal heartbeat is detected, which can happen as early as six weeks into a pregnancy, before many women realize they're expecting. It allows for limited exceptions.

It is scheduled to become enforceable on Jan. 1. Amid confusion caused by public discourse surrounding the law, abortion providers have stressed that clinics remain open and abortion remains legal in Georgia and nationwide.

Lawyers with the American Civil Liberties Union, Planned Parenthood and the Center for Reproductive Rights in June filed a constitutional challenge to the law on behalf of Georgia abortion providers and an advocacy group. They've asked U.S. District Judge Steve Jones to keep the law from taking effect while that challenge is pending.

After hearing arguments from both sides Monday, U.S. District Judge Steve Jones said he plans to rule as soon as possible on that request.

The Georgia legislation makes exceptions in the case of rape and incest, as long as the woman files a police report first. It also allows for

abortions when the life of the woman is at risk or when a fetus is determined not to be viable because of a serious medical condition.

Additionally, it declares an embryo or fetus a "natural person" once cardiac activity can be detected, saying that is the point where "the full value of a child begins." That would make the fetus a dependent minor for tax purposes and trigger child support obligations.

The U.S. Supreme Court has consistently held that states must respect a woman's right to choose to have an abortion at any point before viability, and Georgia's law violates that by banning many pre-viability abortions, Talcott Camp with the ACLU argued in court.

"The main purpose of this law is to ban abortion," Camp said.

She also attacked the new definition of personhood, saying it is unconstitutionally vague and could have vast implications. Health care providers may hesitate to provide certain care to pregnant women out of a fear of prosecution if the fetus is unintentionally harmed, she said.

Patrick Strawbridge, a lawyer representing the state, argued that the law is a ban on pre-viability abortions and doesn't violate Supreme Court precedent because it continues to allow abortions up to the point when a heartbeat is detected and even in some cases after a heartbeat is detected.

He also rejected arguments that amending the definition of "natural person" could have unconstitutionally vague implications.

The so-called heartbeat law is one of a wave of laws passed recently by Republican-controlled legislatures in an attack on the U.S. Supreme Court's 1973 *Roe v. Wade* ruling that legalized abortion nationwide.

None of the bans has taken effect. Some have already been blocked, and elsewhere courts are considering requests to put them on hold while legal challenges play out.

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