

Federal judge stops enforcement of North Dakota fetal heartbeat law

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Bismarck, N.D.

A federal judge's temporary injunction stopping enforcement of a new North Dakota law barring abortion when a fetal heartbeat is detected "is not surprising and is typical in most legal challenges to pro-life laws," said the North Dakota Catholic Conference.

U.S. District Court Judge Daniel Hovland issued the ruling Monday in a suit filed by Red River Women's Clinic, the state's only abortion clinic.

In March, North Dakota Gov. Jack Dalrymple signed three abortion bills into law in March, one to require doctors who perform abortions to have admitting privileges at a local hospital; another to ban abortion for the purpose of sex selection or genetic abnormality; and a third to ban abortion after the detection of a fetal heartbeat, which could be as early as six weeks.

All three laws were to take effect Aug. 1.

Hovland called the fetal heartbeat law "clearly invalid and unconstitutional" and said it stands in "direct contradiction" to U.S. Supreme Court decisions in cases "addressing restraints on abortion."

A statement posted on the website of the state Catholic conference, which represents the bishops of Fargo and Bismarck, said the plaintiffs did not seek a temporary injunction against the prohibition on performing an abortion solely for reasons of sex selection or genetic abnormality.

"Although it is part of the clinic's lawsuit, absent further actions, that law should go into effect Aug. 1, which would make North Dakota the first state in the nation to protect unborn children with disabilities," the statement said.

The Red River Women's Clinic also plans to challenge the requirement its doctors have admitting privileges at a hospital.

In March, when lawmakers passed the three abortion bills, Bishop David Kagan of Bismarck said their actions "affirmed our state's commitment to the protection of all human life."

North Dakota lawmakers also voted March 22 to put a referendum on the 2014 ballot that would amend the state constitution to say that "the inalienable right to life of every human being at any stage of development must be recognized and protected."

Earlier in July, a state judge said a 2011 North Dakota law prohibiting one of the two drugs used for nonsurgical abortions violates the state and U.S. constitutions.

North Dakota Judge Wickham Corwin July 15 said the two-year-old law was "simply wrongheaded" and that "no compelling state interest justifies this infringement."

Kagan and Bishop John Folda of Fargo said in a statement that with his ruling, Corwin recognized a right to abortion in the state constitution "more expansive than that recognized by the U.S. Supreme Court."

"A lone judge sitting in Fargo has declared that the North Dakota Constitution makes abortion a 'fundamental' right subject to practically no limitations," the bishops said July 16. "In fact, the right 'found' by ... Corwin is more expansive than that used by the U.S. Supreme Court."

"As a result, the opinion could put all of the state's laws on abortion in jeopardy, including its parental consent laws, health and safety requirements, and conscience protection," they said.

Attorney General Wayne Stenehjem said he planned to appeal Corwin's ruling to the North Dakota Supreme Court.

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