

Federal judge strikes down part of new Texas abortion law

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Austin, Texas

A federal judge voided one section of Texas' new abortion law that was scheduled to take effect Tuesday.

Judge Lee Yeakel of the U.S. District Court in Austin ruled Monday that the admitting-privileges provision of the new law was unconstitutional.

The law required abortion providers to have admitting privileges at a local hospital. Yeakel decided otherwise, saying it would unreasonably limit a woman's access to abortion. The provision, he said in his ruling, "is without a rational basis and places a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus."

Yeakel, though, upheld a second provision that requires doctors to use a particular drug protocol in nonsurgical, medication-induced abortions.

The Texas law requires doctors to use a protocol approved by the Food and Drug Administration in 2000, which approved the use of higher doses of the medication through the seventh week of pregnancy. Yeakel ruled that requiring the protocol did not pose an unconstitutional obstacle, except in cases where the new regimen appeared necessary to save the life or health of the mother.

The suit, brought by the American Civil Liberties Union, the Center for Reproductive Rights, Planned Parenthood and the owners of abortion clinics in Texas, did not challenge a ban on nearly all abortions starting at 20 weeks after conception. The ban took effect Tuesday.

Also not challenged in the suit was a provision that all abortion clinics meet the standards of ambulatory surgery centers. The provision does not take effect until next September.

Texas Gov. Rick Perry said the state would appeal the decision. Yeakel, in his ruling, said the ultimate decision on the bill would not be reached by him, but "by either the (Fifth U.S.) Circuit (Court of Appeals in New Orleans) or the Supreme Court of the United States."

Had the admitting-privileges provision been ruled constitutional, it was estimated that up to 12 of Texas' 36 abortion clinics would have had to close.

Admitting-privileges provisions had been blocked earlier by courts in Alabama, Mississippi, North Dakota and Wisconsin.

The drug-protocol provision is still legal in Ohio, but it was thrown out by courts in North Dakota and Oklahoma.

The 20-week requirement has been adopted in 12 states, but it was rejected by the court in the three states where it was subject to a legal challenge.

The abortion issue in Texas drew national and international attention in July.

When a bill to toughen abortion regulations failed to gain traction during the regular session as lawmakers focused on the state budget and other matters, Perry decided to add abortion to his call for a special session that began hours after the regular session adjourned.

After a series of delays allowed Democratic State Sen. Wendy Davis of Fort Worth to filibuster in the waning hours of the session, the abortion measure died despite clear majority support. Perry called a second special session and again added abortion restrictions as an agenda item. It passed and the governor signed it into law July 17.

Opponents of the law quickly challenged it by filing a lawsuit.

During the first special legislative sessions, the filibuster by Davis got the attention of pro-life supporters and brought them out to the Capitol in large numbers for the second special session.

Marie Seale, director of the diocese of Austin's Office of Pro-Life Activities and Chaste Living, said in an interview at the time that "people were wildly upset about what Wendy Davis did to legislation in the first special session. When pro-lifers saw the vote being taken from them, they riled up."

She told the *Catholic Spirit*, Austin's diocesan newspaper, that it was "a grass-roots movement, but at the same time I've never seen the laity really answer the call. ... This is our faith in action. I'm in awe and praying it doesn't end."

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