

Utah Will End Defense Of Abortion Law

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The Deseret News. Salt Lake City, Utah: January 12, 1993. pg. B.1.

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Utah will end its appeal of a 1991 anti-abortion law that has already cost taxpayers about \$750,000, Gov. Mike Leavitt and Attorney General Jan Graham jointly announced Tuesday.

Last month U.S. District Judge J. Thomas Greene struck down the heart of the Utah law - a prohibition against elective abortions. He upheld other parts of the law, and anti-abortion advocates in Utah hoped that Leavitt and Graham - who each took office just a week ago - would continue the legal fight. A *Deseret News/KSL* poll, conducted by Dan Jones & Associates and published Sunday, shows 61 percent of Utahns don't want to appeal the 1991 anti-abortion law further. Only 35 percent said the state should continue the appeal in light of recent court decisions and its cost to taxpayers.

Although Graham and Leavitt say no further appeals, the decision against appealing is not totally theirs. The local chapter of the American Civil Liberties Union - who sued the state over the law on behalf of half a dozen physicians and local abortion clinics - could decide to appeal Greene's ruling, as well.

"I will not initiate an appeal of Judge Greene's ruling," said Leavitt. "I ask that the ACLU show similar restraint. If the ACLU chooses to violate the cease-fire I will answer their appeal."

Graham said she and Leavitt have worked closely together to reach the decision not to appeal the law. "I've said all along I will not appeal the ruling unless there is a compelling legal reason to do so. At this time there is no compelling legal reason justifying the expense to taxpayers of prolonging this legal battle," Graham said.

In 1991, lawmakers and then-Gov. Norm Bangerter believed that a change in the makeup of the U.S. Supreme Court - the ultimate arbiter in constitutional law - might allow more restrictions on abortions. Anti-abortion advocates hoped the high court would clearly overrule *Roe vs. Wade*, the landmark abortion-rights decision of the mid-1970s. Thus, the 1991 anti-abortion law was born. The law prohibited abortions except in cases where the mother's life and physical health were in grave danger, where the fetus was deformed so badly the baby probably wouldn't live and in cases of rape and incest properly reported to authorities. The Utah law is one of the more restrictive in the nation.

But even though former President Ronald Reagan had a number of appointments to the high court, with an eye toward overturning *Roe vs. Wade*, in a decision last June the court voted 5-4 to keep the main tenet of the decision - a woman's right to an abortion. (At the request of Bangerter and GOP legislative leaders, former Attorney General Paul Van Dam decided to hire outside counsel to represent the state in the abortion case, the main reason the cost of defending the law has topped \$750,000).

More restrictions can be placed on abortions short of prohibition, however, recent court rulings show. And it is certain that both Republicans and Democrats will introduce bills in the upcoming Legislation aimed at doing just that.

Sen. LeRay McAllister, R-Orem, who sponsored the 1991 law, is working on legislation modeled on a Pennsylvania law. Part of that bill will likely include a 24-hour waiting period before an abortion can be performed and "informed consent" - education

and informational material provided to women seeking abortions explaining the procedure and alternatives to abortion.

Leavitt said he is committed to restricting abortions as much as possible under court rulings. He said he'll support legislative efforts to adopt a new anti-abortion law along the lines of the Pennsylvania case. Leavitt said he especially wants to strengthen informed-consent procedures and a 24-hour waiting period.

Local American Civil Liberties Union officials - who challenged the 1991 law in federal court - have said that while a 24-hour waiting period, upheld by the Supreme Court, may be reasonable in Pennsylvania - a state more urban than Utah - it may well not be reasonable here. Elective abortions are performed in mainly one Salt Lake clinic, and making a woman traveling from San Juan County, for example, wait 24 hours in Salt Lake City before an abortion is performed may violate the high court's recent language saying government can't "unduly" restrict a woman's ability to obtain an abortion.

Utah doctors challenging Utah's abortion law (the ACLU-sponsored suit) will meet with their New York lawyers this week to discuss whether or not to appeal portions of Greene's ruling on the 1991 law and two older laws.

The doctors are troubled by only one part of Greene's ruling on the 1991 law: Greene's claim that fetuses are viable after 20 weeks gestation.

The doctors and their attorneys have until Feb. 11 to decide whether they will appeal.

Besides reviewing Greene's ruling on the 1991 law, the doctors will likely discuss appeals on Greene's ruling upholding older laws banning fetal experimentation and dictating the method of abortion in advanced pregnancies.