Abortion decision

Will Lansing eye Missouri-style law?

STEPHEN CANTRELL/staff photographer

A pro-life supporter prays during a protest at an area abortion clinic earlier this year. Pro-life groups are taking Monday's Supreme Court ruling as a victory, since it will allow states to regulate how a woman can get an abortion.

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"We'll probably see a scramble in the state Legislature to restrict" abortions, Dooley said. She said she expects the impact of the decision to be felt immediately, and added she'd already heard at least one state representative was drafting language to make Michigan's abortion laws parallel those of Missouri.

THIS LATEST challenge to Roe vs. Wade began April 26, when the court heard arguments in the case of Webster vs. Reproductive Health Services. Webster stands out among other challenges because the Bush administration and anti-abortion groups had joined forces and asked the court to use it to overturn Roe vs. Wade.

Webster vs. Reproductive Health Services focused on a challenge to a Missouri law that states life begins at conception and that unborn children have "protectable interests in life, health and well-being."

The Missouri law also makes it more difficult for a woman to get an abortion after 20 weeks of pregnancy and forbids the use of public hospitals or employees to assist in abortions not necessary to save the mother's life.

One key issue of the Missouri law is the notion of viability. In Roe, the Supreme Court held that at the point a fetus is viable outside the womb, the state has an interest in its life and can halt an abortion.

Webster, however, said viability is an arbitrary point and the state has a compelling interest to protect life at all stages of a pregnancy.

Ultimately, Missouri argued that the Constitution does not guarantee a fundamental right to an abortion.

THE 8TH CIRCUIT Court ruled against Missouri and through Webster, the state appealed to the Supreme Court. The high court reaffirmed a woman's right to abortion Monday, but let states decide how that abortion may be obtained.

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— Pam Dooley, executive director Michigan Planned Parenthood

Missouri's law differed from Roe vs. Wade in several ways. In the 1973 landmark decision (which has been challenged several times — see accompanying story), the Supreme Court based its view on the pivotal point of a woman's right to privacy and said that right extends to and protects her decision to end a pregnancy.

The court said a woman, without governmental interference, may terminate a pregnancy any time during the first trimester. After that, the court said the state has a compelling interest in a woman's health and could regulate an abortion.

An interesting point in Missouri's case is that it says with modern technology, a fetus may be viable outside the womb at a much younger age. Part of Missouri law requires physicians to perform tests on fetal gestational age, weight and lung maturity if the physician thinks the mother is 20 or more weeks pregnant.

However, the American Medical Association, which neither opposed nor supported Roe vs. Wade in its brief to the court, said those fetal-viability tests increase the risk to the mother and fetus without providing significant information about viability.

Congress eyes path vs. abortion

Even before the U.S. Supreme Court ruled in this latest abortion case, both sides agreed the outcome would only embolden anti-abortion activists in Congress.

"THERE HAS already been an erosion of Roe (vs. Wade) in Congress and in the minds of the people," said Rep. Christopher H. Smith, R-N.J., co-chairman of the House Pro-life Caucus.

Smith has said that he and his allies would continue pressing a constitutional amendment banning abortion no matter how the high court ruled. In 1983, the only time either chamber of Congress has voted on such a measure, the Senate rejected the proposal 49-50, 18 votes short of the two-thirds majority needed.

The pro-choice side, outvoted on abortion-funding issues, has been less active in Congress, relying on the court to uphold abortion rights.

But in recent years it has become more organized in the face of strong anti-abortion sentiment from the Reagan and Bush administrations. Its members count as a victory the 1987 defeat of Supreme Court nominee Robert H. Bork, an abortion opponent and a critic of Roe.

AT LEAST 10 abortion-related measures have been introduced in the 101st Congress. Most seek an outright ban on abortion, further restrictions on federal funding for the procedure or limits on the use of fetal tissue obtained from abortions.

The lone exception is HR 857, introduced by Rep. Bill Green, R-N.Y., which would require abortions to be made as available as other pregnancy-related services under all programs that receive federal funds.

The pending anti-abortion measures include:

- S 73 — by Sen. Jesse Helms, R-N.C., would bar the use of federal funds for all abortions except those necessary to safe the life of the mother and would prohibit federal funds from being used to encourage or counsel abortion.
- S 162 — by Helms, would disallow a personal tax exemption for a child born alive, or who subsequently dies, after an induced abortion.
- HR 162 — by Rep. Bill Emerson, R-Mo., would prohibit using federal funds for abortion except when the mother's life is endangered.
- HR 620 — by Rep. Robert K. Dornan, R-Calif., would bar abortion in federal prisons except when the mother's life is endangered.
- HR 621 — by Dornan, would bar Medicare or Medicaid payments to anyone who provides or counsels the use of abortion drugs or devices.
- HR 623 — by Dornan, declares that fetuses are entitled to certain constitutional guarantees and would prohibit abortion in any case.
- HR 624— by Dornan, would deny tax-exempt status to organizations that perform or finance abortions.
- HR 625 — by Dornan, would restrict the transportation and use of fetal tissue obtained in abortions and calls for licensing of facilities that would store such material.
- HR 1351 — by Rep. Clyde C. Holloway, R-La., would restrict the use in research fetal tissue obtained from abortions.

Court decisions on abortion rights

Following are the most significant previous U.S. Supreme Court rulings on a woman's right to an abortion:

- 1973 — *Roe v. Wade*, 7-2, legalized abortion nationwide. The court ruled that the constitutional right of privacy includes a woman's right to terminate a pregnancy. The court said that during the first trimester of pregnancy, the decision may be virtually free of state interference. After the first trimester, the state has a compelling interest in protecting the woman's health and may regulate abortion to promote that interest. The court also said that at the point the fetus is "viable" outside the womb, the state has an interest in its life and can restrict abortion.

Doe v. Bolton, 7-2, struck down a Georgia law requiring physician concurrence in a woman's choice to have an abortion in her first trimester of pregnancy.

- 1976 — *Planned Parenthood of Central Missouri v. Danforth*, 5-4, held that states could not require a husband's or parent's consent as a condition for abortion.

Bellotti v. Baird held unanimously that states could not allow parents to veto abortions sought by their unmarried daughters under 18. the case was remanded to the Massachusetts courts for interpretation of a statute that required consent of both parents but allowed consent to be waived by a judge for "good cause shown." The case returned to the high court in 1979.

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