

ACLU files lawsuit to end state's limits on abortion

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A lawsuit filed yesterday seeks to end Kentucky's prohibition against using public money for abortions except when the life of the woman is in danger.

The suit, filed in Jefferson Circuit Court by the American Civil Liberties Union, claims the limitation denies women equal protection under the law and improperly pressures low-income women to give birth. It brands as unconstitutional state laws that govern abortions funded by Medicaid or performed in public hospitals.

An emergency hearing is set for this morning on the suit, which has been assigned to Circuit Judge Thomas Wine.

Kentucky is one of several states that have defied a new federal order to pay for abortions for low-income women in cases of rape or incest. Yesterday's lawsuit does not deal directly with that defiance, though "we are certainly concerned about it," said Beth Wilson, director of the abortion-rights project of the American Civil Liberties Union of Kentucky.

The suit addresses broader health concerns. It says women are denied public funding for abortions even if pregnancy endangers their health, results from rape or incest or will lead to the birth of a severely or fatally impaired child, and even if a doctor at a public facility recom-

mends an abortion and is willing to perform it. The suit also claims the public hospital ban denies doctors access to training in abortion services and thus reduces the number of doctors qualified to provide them.

Wilson said that similar suits have been filed in 12 other states since 1981, and that all except two of them — in Michigan and Pennsylvania — have prevailed in court.

The lead plaintiff in the lawsuit, anonymously identified as "Mary Doe," is described as a Kentucky Medicaid recipient who has kidney disease and high blood pressure. She has two children and recently learned she is pregnant again, the suit says.

Because of her medical condition, "continuing the pregnancy is extremely dangerous but not life-threatening," the suit says. She cannot afford to pay for an abortion and, because of state law, cannot obtain one under Medicaid or in a public hospital.

The suit asks that "Mary Doe" represent two classes of women: those who want abortions for medical reasons but are denied them un-

der Medicaid, the health-care program for the poor; and those who want abortions for any reason but are unable to have them in public hospitals.

Joining "Mary Doe" as plaintiffs are 26 organizations and providers of abortions and other medical services. Among them are the Kentucky section of the American College of Obstetricians and Gynecologists; the Kentucky Religious Coalition for Reproductive Choice; and EMW Women's Surgical Center, an abortion provider with clinics in Louisville and Lexington.

Listed as defendants are Kentucky Human Resources Secretary Fontaine Banks Jr., Gov. Brereton Jones, Attorney General Chris Gorman and the heads of Jefferson County's prosecutorial agencies.

Donna Wells, executive director of EMW Women's Surgical Center, declined to comment on the lawsuit, as did state Medicaid Commissioner Masten Childers II.

Wilson said 37 Medicaid-funded abortions were performed in Kentucky from 1990 through 1992, and Childers said another 12 were performed in 1993. By contrast, Medicaid paid for nearly 20,000 live births in Kentucky in 1990 and for nearly 22,000 in 1991, Wilson said.

Separate figures are not available for abortions in public hospitals, but those abortions are probably included in the Medicaid figures, Wilson said.