

Abortion foes face uphill battle after court ruling

By LAURIE ASSEO
Associated Press

WASHINGTON — Some abortion foes acknowledge their states' bans on what critics call "partial-birth" abortion are doomed by a new Supreme Court ruling. But others vow to fight for some type of restriction that would survive legal challenge.

A day after striking down Nebraska's law as an undue burden on women's right to end their pregnancies, the Supreme Court acted yesterday on three other state laws that sought to prohibit the procedure known as "dilation and extraction," in which a doctor partially delivers a fetus before

collapsing the skull.

The justices ordered a federal appeals court that had upheld laws from Illinois and Wisconsin to reconsider them in light of the standards set by Wednesday's 5-4 ruling in the Nebraska case.

And, in one of many orders issued in the wake of the 1999-2000 term, the justices let stand a federal appeals court ruling that struck down Iowa's law banning the procedure.

Elsewhere, officials and advocates on both sides of the abortion issue are examining the Nebraska decision for its effect on laws in their states.

"In practical terms, it means that the South Dakota statute is unenforceable," said state At-

torney General Mark Barnett. "Our hands are tied. They've expressed the law and we must follow it."

Kansas state Rep. Tony Powell, an anti-abortion leader, said, "I will be honest with you, I don't know what we will do. . . . Am I giving up? No, not yet."

Republicans in Congress also are looking to retool their proposed legislation. "This opinion will be studied intensely," said House Judiciary Chairman Henry Hyde, R-Ill.

President Clinton vetoed proposals banning the procedure in 1996 and 1997, saying they did not provide adequate exceptions to protect the health of the mother. Both times, Con-

gress failed to override the veto.

The justices said the Nebraska law could criminalize other abortion procedures besides the one opponents said they were targeting.

The law's other big flaw, the court said, was its lack of an exemption to allow the procedure if a doctor concludes it is the best way to preserve a woman's health.

Gloria Feldt, national president of Planned Parenthood, said yesterday, "Our lawyers believe that most, if not all, of the laws would almost inevitably be unconstitutional under this ruling."

In addition to Nebraska, 30 states — including Kentucky —

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enacted bans on the procedure. Many of those laws have been blocked or invalidated by lower courts.

Wisconsin Attorney General James Doyle said yesterday his state's law clearly is unconstitutional under the Nebraska rul-

ing. "The court premised its holding on its view that in order to be constitutional the law must protect the women's health. The Wisconsin law does not," he said.

Wisconsin Gov. Tommy Thompson said if his state's

law is thrown out, he will ask lawmakers to pass another one that might have a better chance of meeting constitutional standards.

Justice Sandra Day O'Connor, who provided the fifth vote to strike down Nebraska's law, said a law banning the procedure could pass muster if it were limited only to that particular procedure and included an exception to preserve the mother's life and health.

Justice Anthony Kennedy, a co-author with O'Connor of the court's 1992 ruling that upheld abortion rights, wrote in dissent Wednesday that her assurance Nebraska could draft another law was "meaningless."