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Judge upholds Kentucky's 'informed consent' abortion law

By DEBORAH YETTER
The Courier-Journal

A federal judge has upheld Kentucky's 1998 "informed consent" law that requires women seeking abortions to wait 24 hours so they may be counseled about the procedure and offered state pamphlets about

abortion and alternatives.

U.S. District Judge John G. Heyburn II yesterday struck down a court challenge to the law by opponents who said it would place an undue burden on women, especially those who would have a hard time making two visits to an abortion clinic.

But Heyburn, citing a 1992 U.S. Supreme Court decision upholding a similar law in Pennsylvania, ruled Kentucky's law is constitutional. He said in his order that he will schedule a conference in January to dismiss the challenge to the law and lift a stay that had delayed enforcement.

Abortion opponents celebrated the ruling yesterday while those in favor of women's right to choose abortion expressed disappointment.

Michael Janocik, with Kentucky Right to Life, said his group is "elated" by Heyburn's ruling.

"It is a common sense law that seeks to protect the

health and well-being of women by providing them with factual information regarding the health risks of abortion, fetal development and positive alternatives," he said.

Janocik said Right to Life hopes the law will lead to fewer women having abortions once they view infor-

mation about fetal development and alternatives.

Mark Guilfoyle, a Northern Kentucky lawyer who defended the law for the state, said the ruling is a victory for women because it means they will have more

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information before obtaining an abortion.

But Beth Wilson, director of the American Civil Liberties Union's Reproductive Freedom Project in Kentucky, said it's just the opposite.

"It is a sad day for women in Kentucky," she said. "I think this law is going to have a devastating effect on women in Kentucky — especially low-income women or those in an abusive situation."

Abortion clinics in Kentucky are located only in Louisville or Lexington. Opponents of the law had ar-

Kimberly K. Greene, a lawyer for several Louisville doctors who challenged the law, said that finding was the one "window" of hope for women who might be hurt by the ruling.

"I'm grateful for that," said Greene, a lawyer for the firm of Dinsmore & Shohl who also represents The Courier-Journal and other news organizations.

Greene said she and others involved in the lawsuit haven't decided whether to appeal. Greene had volunteered to file the suit for the American Civil Liberties Union of Kentucky on behalf of doctors Samuel G. Eu-

offer the pamphlets to any woman seeking an abortion. One pamphlet describes to the pregnant woman the agencies and services available if she chooses to have the child; the other provides details and photographs of fetal development.

The law has been controversial since it was passed by the 1998 General Assembly.

Gov. Paul Patton vetoed the bill as government-mandated "thought control." But lawmakers overrode his veto.

However, the state agreed to delay enacting it until legal challenges were exhausted.

"It is a sad day for women in Kentucky."

Beth Wilson, Reproductive Freedom Project

gued it would hamper women, especially those who have to travel a long way, from obtaining abortions.

They argued the law would force women to visit the clinics twice — once to receive the information and again, 24 hours later, to obtain an abortion. They said poor women or women with an abusive mate would have a harder time making two trips.

Heyburn, addressing that point in his 17-page opinion, said the law does not specifically prohibit telephone contact with women in some situations, meaning the women could be counseled by telephone.

banks Jr. and Ernest W. Marshall along with Ronachai Banchongmanie, who was later dismissed as a plaintiff.

Defendants were C. William Schmidt, executive director of the Kentucky Board of Medical Licen-

sure, and the state Cabinet for Health Services. Cabinet spokesman Barbara Hadley Smith said yesterday her agency will wait to see whether the ruling is appealed before distributing pamphlets it was directed to develop under the law.

A health services professional must



Heyburn's ruling pleased abortion foes.

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