

Abortion showdown in Sioux Falls

South Dakota's only clinic is front and center in national struggle

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Published March 16, 2006

SIOUX FALLS, S.D. -- In a squat, nondescript building on West 41st Street, just down the block from a Lutheran church and a YWCA, sits a small family-planning clinic.

The one-story building has no windows facing the street, but closed-circuit TV cameras under the rain gutters scan for intruders. Visitors park in the back and have to show photo ID before being buzzed in through an anteroom enclosed by bulletproof glass.

Welcome to South Dakota's only abortion provider, the new ground zero of the national abortion-rights struggle.

One day a week, sometimes two, this Planned Parenthood clinic performs abortions; on Wednesday, a doctor was in attendance. But that will end this summer if the state's near-total abortion ban goes into effect July 1, as planned.

Both supporters and opponents of the newly passed law claim to represent the majority of South Dakotans. But inside the clinic, women are angry and scared.

"I can't believe somebody would step in and try to make that choice for me," said a 30-year-old woman who was waiting for an abortion Wednesday afternoon.

The unemployed Native American, who declined to give her name or hometown, said she and her husband conceived despite using birth control. After long hours of discussion, they agreed to terminate the pregnancy.

"I'd make a different choice," she said, "if I was economically able" to care for another child.

'I have a choice'

She considered having the baby and giving it up for adoption, but only briefly. "I've been through one adoption," she said. "It's no easier. But at that time I had no choice. With Planned Parenthood, I have a choice."

The clinic, which mostly dispenses birth control, looks like any suburban medical center. It has a crowded waiting room with posters and pamphlets on birth control and sexually transmitted diseases lining the walls. In the back are a series of small offices and examining rooms--each with the telltale stirrups of the gynecologist's table--surrounding a central area with staffers in blue and green scrubs.

This little fortress is the immediate target of a new law that criminalizes nearly all abortions in the state. Ultimately, however, the law's supporters are hoping to parlay it into a nationwide ban on a medical procedure they consider infanticide. And both sides are girding for battle.

"We're gearing up for a huge campaign," said Leslee Unruh, who runs a pregnancy center that counsels against abortion.

"South Dakota is just the first state" to pass a sweeping abortion ban, said Nancy Northup, president of the Center for Reproductive Rights. "There will likely be more."

Under the measure signed last week by South Dakota Gov. Mike Rounds, a doctor who performs any abortion not necessary to save the woman's life can be jailed for up to 5 years. The measure was passed with the explicit goal of overturning the constitutional right to abortion established by the Supreme Court in the 1973 Roe vs. Wade decision.

South Dakota's ban has created a sense of urgency that promises to energize activists on both sides.

Some feminist groups have called for a boycott of South Dakota's tourist attractions, including Mt. Rushmore. On the other side, a Web site called ivotemyvalues.com encourages abortion foes to visit South Dakota in what Unruh calls "a counterboycott."

Abortion-rights advocates may challenge the law through a November ballot initiative--a riskier and more expensive proposition than taking it to court--because a referendum could help them raise funds and mobilize support.

The anti-abortion movement, too, has been given a shot of adrenaline. An anonymous donor has already pledged \$1 million to help the state pay the expenses of defending the new law. And Rounds' office announced that people can donate to the fund by sending checks to the commissioner of the South Dakota Bureau of Administration.

Although the abortion ban would not pass constitutional muster today under Roe, it signals what the legal landscape might look like without Roe.

According to the Center for Reproductive Rights, South Dakota is one of 21 states at high risk of recriminalizing abortion should Roe be overturned. Twenty states are at low risk, the group said, and the rest, including Illinois, would likely see a patchwork of restrictions and limitations.

The high-stakes battle has prompted many in the mainstream of the anti-abortion movement to question whether the time is right for a frontal assault on Roe.

The National Right to Life Committee, in a terse statement, said, "Currently there are at least five votes, a majority, on the U.S. Supreme Court to uphold Roe vs. Wade."

Legal experts expect the ban to be challenged. Its chief sponsor, state Rep. Roger Hunt, expects Planned Parenthood to get an injunction from a federal district court judge to prevent the ban from going into effect.

He also expects an appellate judge to uphold the injunction. His hope is that the Supreme Court will be more receptive to banning abortion by the time the case makes its way to the justices.

The court now has only two sure votes to overturn Roe: those of Justices Clarence Thomas and Antonin Scalia. Hunt believes two newcomers, Chief Justice John Roberts Jr. and Justice Samuel Alito, will join them, although neither has yet indicated his stance on Roe. But even if Hunt is right, that would not be enough.

Hunt is banking on President Bush getting the opportunity to appoint a third anti-abortion justice.

"Justice [John Paul] Stevens will be 86 next month and may retire over the next couple of years," said Hunt.

But Daniel McConchie of Americans United for Life thinks that's a long shot. "It was hard enough to confirm Roberts and Alito," he said. "With a law like this in the wings, it will be like World War III to get another judicial confirmation through the Senate--especially if the new justice is replacing a liberal member."

A reaffirmation of Roe by the high court would not only set back the anti-abortion movement but would cost South Dakota taxpayers dearly in legal fees, McConchie noted.

While the strategists strut their stuff on the national stage, clients of the Planned Parenthood clinic on the edge of Sioux Falls are worried.

Things are already difficult in South Dakota for women seeking to terminate an unwanted pregnancy. The Sioux Falls clinic, which performs about 800 procedures a year, is the only abortion provider in a state 360 miles wide; many women have to drive long distances to reach it. That can be a hardship for poor women, who often have trouble scraping together the \$500 fee. South Dakota does not allow public funding for abortions or birth control.

"You can't imagine the stress they're under--they can't tell anyone or ask for help because their family would disapprove, they have no place to leave their children, they can't afford to take off work, and they're afraid they're going to hell for doing this," said Evelyn Griesse, who provides financial assistance to women seeking abortions through a fund called Access for Every Woman.

Doctors from out of state

No physician in South Dakota will perform abortions, so four doctors take turns flying in to

Sioux Falls from Minneapolis on clinic days.

Sometimes bad weather grounds aircraft and the clinic has to cancel its appointments, as it did on Monday when a spring snowstorm blew through. That leaves frustrated patients with the option of coming back another day or traveling even farther--to Minnesota or Iowa or Colorado--at still greater expense.

If the new law goes into effect, doctors could perform few, if any, legal abortions in South Dakota. The law has no exception for rape, incest, serious birth defects or preventing injury to the woman. The only abortions allowed are those "designed or intended to prevent the death of a pregnant mother," and it is unclear who will decide that.

Hunt said the legislators were sensitive to the needs of rape victims in that they didn't outlaw emergency contraception. But Planned Parenthood staffers said many doctors, even in emergency rooms, won't prescribe the "morning-after" pill, and many pharmacists won't dispense it.

Polls suggest South Dakota is only marginally more conservative than the rest of the country, which overwhelmingly supports abortion rights, at least under some circumstances.

Nevertheless, the vociferous anti-abortion lobby seems to set the tone here.

Coffee shop owner Michelle Dill, who opposes the ban, believes she's part of the silent majority. "I think people are afraid to say what they believe," said Dill. "If I say something unpopular, it could affect my business."

Staffers at the Planned Parenthood clinic say local businesses will have nothing to do with them. Radio stations, magazines and billboard companies will not accept their ads for emergency contraception.

"We're conservative people," said Bob Greenfield, a medical device salesman and a South Dakota native. "I think the majority would support the ban [because] they believe in the sanctity of life."
