

Illinois Supreme Court Says It Will Issue Necessary Rules

BY Dave Andrusko

After an 11-year delay, the Illinois Supreme Court has finally signaled that it intends to move on an abortion law passed by the General Assembly.

In 1995 the Illinois legislature passed the "Parental Notice of Abortion Act," which was so permissive that even the then-Governor, pro-abortion Jim Edgar, agreed to affix his signature. In June, the ACLU quickly persuaded a federal judge to grant a restraining order just hours after Edgar had signed the measure into law.

And when the Supreme Court "refused to issue rules to govern how minors could seek waivers in special circumstances" by January 1996, a federal judge ruled that "the Parental Notice of Abortion Act was unenforceable," according to the Chicago Tribune.

But on September 18, the state Supreme Court issued a one-sentence announcement saying it would issue the needed rules. Only one member from the 1995 court remains on the bench.

In truth, the legislation is not a true parental notification law at all. When the girl is under 18, two days before an abortion is to be performed the abortionist must tell a parent, step-parent living in the household, grandparent, or legal guardian.

The law has exceptions, such as in instances where a parent has sexually or physically abused the minor. The law also includes the exceptions virtually all such measures have: A judge can waive notice if he/she determines the minor is "sufficiently mature" to make the abortion decision or if notification is not in her "best interest."

What all that exactly means was left to the state Supreme Court to fashion through rules. And, although the Court has now said it will, no exact timetable was announced.

Predictably, pro-abortion Democrats in the General Assembly insisted the Court was "playing politics." Court spokesman Joseph Tybor vigorously disagreed.

"It's not a political issue," he told the Tribune. "[I]t's a legal issue on which this court disagreed with an earlier court." Also worth noting is that all the judges—four Democrats and three Republicans—unanimously agreed to take up the matter.

Some Democrats have vowed to mount a campaign to repeal the law. State Rep. Sara Feigenholtz (D-Chicago) told the Tribune, "There will be a concerted effort to stop this."

"What exactly that will be I do not know," she added. "But I can hardly see the pro-choice community sitting back and letting this move forward."

However, until the state Supreme Court actually acts, there is probably little the legislature could do (as the Tribune put it) "about a law that was passed in the 1990s and not enforced." In addition, not until November 14 will the General Assembly be back in session.

There are other avenues that opponents might explore. Lorie Chaiten, director of the Reproductive Rights Project for ACLU of Illinois, issued a press statement, saying, "This is bad policy." It was the ACLU of Illinois which won the original court order. The organization could, of course, challenge the new rules when they are written.

In addition, state Sen. Carol Ronen (D-Chicago) told the Tribune that she remained "cautiously optimistic" that rules "would never be enacted." Illinois Attorney General Lisa Madigan "would have to ask a U.S. judge to lift his 1996 order disallowing the law to take effect because the law came without specific rules," according to the Tribune.