Abortion law overturned

By Staff and wire reports

A federal judge Wednesday declared Louisiana’s strict anti-abortion law unconstitutional, setting the stage for appeals by abortion opponents hoping to overturn the 1973 Supreme Court decision that established abortion rights.

Proponents of the law called it the nation’s strictest. If eventually upheld, it would send doctors who perform abortions to prison for up to 16 years with fines of up to $100,000. It would allow abortions to save the life of the mother and, under certain conditions, in cases of rape and incest.

In striking down the law, U.S. District Judge Adrian Duplantier canceled a trial on the matter that was scheduled next week.

"I have concluded that no facts which could be developed at a trial could change the legal result dictated by Roe v. Wade," Duplantier said in his ruling. "Roe v. Wade is the title of the 1973 abortion decision."

Louisiana Attorney General William Guste, an outspoken opponent of legal abortion, said he would file appeals Thursday and try to get the Supreme Court to take immediate jurisdiction.

"Tomorrow morning, we will lodge an appeal with the 5th U.S. Circuit Court of Appeals and tomorrow afternoon or the next day, under the Supreme Court of the United States rules, we're going to ask the Supreme Court to take supervisory jurisdiction and bypass the 5th circuit so that this motion for a writ will be on the judges' desks for their consideration on Oct. 4," Guste said.

Reaction from people on both sides of the issue was mild in light of the appeals that are certain to follow.
Abortion

“This is a disappointing bit of news. At the same time it prepares us for the next leg of the case,” said Rep. Sara Terrell, D-Abbeville, author of the bill.

Rep. Jerry Luke LeBlanc, D-LaFayette, a supporter of the bill, told TheAdvertiser late Wednesday that the judge’s ruling was not a surprise but that he was surprised by the early ruling, expecting a trial instead.

“I think what we’re going to see is that this is just the first round in a multi-round battle on that issue, which should be decided by the Supreme Court of this country and not by 50 different legislatures,” LeBlanc said.

The director of Louisiana’s chapter of the American Civil Liberties Union said she expected the ruling because Roe v. Wade is still the law of the land.

“It’s a limited kind of victory,” Shirley Pedder said.

“The intent of the Legislature’s action was to get a test case challenging Roe v. Wade. The only relevant ruling is the one coming down from the United States Supreme Court.”

The Louisiana abortion law was passed by the Legislature earlier this summer when the state House and Senate each voted to override Gov. Buddy Roemer’s veto. It was the first time in this century Louisiana governor’s veto was overridden and it took a two-thirds majority of each chamber to do it.

Roemer has long said he is opposed to abortion on demand. But he said rape exceptions in the bill were drawn too tightly.

The bill required rape victims to seek medical attention within five days of the crime, and that they report the crime to authorities within a week of its occurrence.

Roemer said Thursday that he still believes the bill was badly drawn but he said Gosto has a responsibility to defend the statute.

“My objections to the bill and why I voted it were not primarily based on constitutional matters. It was a personal thing,” Roemer said. “The bill does not take into account the value of mothers and the tough decision. The bill did not give common, sensible ground for people to wrestle with these decisions.”

In his ruling, Duplantier said he personally agreed with Justice Byrn White’s dissent in the Roe v. Wade case. White held that the court was interfering with matters best left to the states.

“However, the majority opinion in Roe, not Justice White’s dissent, is still the law of this land. The Constitution of the United States means what the Supreme Court states that it means at any given time,” Duplantier wrote.

Duplantier said the court had the opportunity to overturn Roe v. Wade in the controversial Webster v. Reproductive Health Services in 1989. It declined to do so although it did allow states to more strictly regulate abortion.

“It matters not what my personal opinion may be as to whether the United States Constitution nullifies the action of elected state legislators in prohibiting abortions under certain circumstances,” Duplantier wrote. “I am bound by my oath of office to decide that under the existing Supreme Court interpretation, the Louisiana statute is unconstitutional.”