Gustie: La.'s anti-abortion law intact

Capitol news bureau

Louisiana's anti-abortion law remains virtually intact despite court challenges resulting in some sections being ruled unconstitutional, Attorney General William Gustie said Friday.

"More than 20 years of the law has gone unchallenged in major legal challenges," Gustie said.

Gustie also applauded a U.S. Supreme Court ruling in an unrelated matter. That ruling holds that evidence seized with defective court warrants can be used against defendants in criminal trials.

Gustie's comments on the abortion law follow a ruling by U.S. District Court Judge Robert Collins of New Orleans, who struck down several sections of the abortion law for being more restrictive than federal law.

"We went through close court scrutiny that our abortion statute is very strong constitutionally and our defense has been very effective," Gustie said.

He said there is an appeal pending on the sections struck unconstitutional.

The appeal could take years to complete, Gustie said.

But Gustie said even if the sections struck down are ultimately ruled unconstitutional by the U.S. Supreme Court, constitutional guidelines outlined by the courts could help the state reframe the sections to meet constitutional tests.

"If the Legislature so desires, at the conclusion of this court battle, it can rewrite those unconstitutional sections to keep the law intact," said Gustie.

"However, I believe that such remedial legislative action, if necessary, is years away..."

Gustie said he is pleased that the law still requires minors to get parental consent or a court order before being allowed to have abortions. Gustie said he's also encouraged to see that women must still be told about abortion methods and their associated health risks before abortions are performed.

"Of course, the law allows for the suspension of parental or judicial consent for minors to have abortions and for all women to have informed consent only if there is immediate threat and grave risk to the life or permanent physical health of a pregnant woman," Gustie said.

Those sections ruled unconstitutional by Collins require that ultrasound testing be performed; that abortions after the first three months of pregnancy be performed in a hospital; that women be advised of alternatives open to them for fetal disposal; that no experimentation be allowed on the aborted fetal tissue, and that women be told of the fetuses' anatomical and physiological development and whether the fetus could survive outside the womb.

Collins also struck down a requirement that the doctors give pre-abortion counseling including mental, emotional and technological information. Gustie said.

"As it stands now, the striking of this section would allow a high school graduate with on-the-job training to give counseling," Gustie said.

Louisiana's abortion law was challenged shortly after it was enacted in 1969 by the American Civil Liberties Union representing two pregnant women, three doctors, and five women's clinics.

Meanwhile, Gustie said the U.S. Supreme Court ruling on the exclusionary rule was a victory for law enforcement.

The court, reversing the 1966 exclusionary rule by deciding that some evidence seized with defective court warrants can be used against defendants in criminal trials.

Gustie said that he has taken the position for some time that, when a police officer acts in good faith on a search warrant issued by a court, even though the warrant may have been improperly issued for some technical reason, the evidence should not be excluded.

Gustie said that, for example, if a police officer acting under a search warrant were to open a trunk of a car and find a dead body with four bullets in it, if there was a technical defect in the warrant, under the exclusionary rule the body could not be offered as evidence.

"Now that is just silly. If all the evidence establishes guilt beyond a reasonable doubt, a murderer would be permitted to go free simply because the warrant on a technically had been improperly issued," said Gustie.