Abortion law reversal upheld

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NEW ORLEANS — A federal appeals court ruled Tuesday that Louisiana’s strict anti-abortion law is “clearly unconstitutional” in that the statute “imposes an undue burden on women seeking an abortion before” the fetus could live outside the womb.

Saying the decision is “not a surprise,” Attorney General Richard Isidore said in Baton Rouge that the fate of Louisiana’s pro-life law now probably rests on how the U.S. Supreme Court treats a similar abortion law passed by the territory of Guam. The Louisiana ruling by a three-judge panel of the 5th U.S.

Circuit Court of Appeals affirmed U.S. District Judge Adrian Depalma of New Orleans, who struck down the state’s law in August 1991.

The state statute, which was passed by the Legislature in June 1991, prohibits abortions except in cases of rape, incest or to save the life of the mother.

Under the law, doctors who perform illegal abortions would face maximum possible penalties of 10 years in prison and a $100,000 fine. A woman who sought or obtained an abortion would face no criminal liability.

In striking down the Louisiana law last summer, Depalma noted that Roe vs. Wade — the U.S. Supreme Court’s landmark 1973 decision that legalized most abortions in this country — still was the law of the land.

In affirming Depalma’s decision Tuesday, the 5th Circuit panel noted that the Supreme Court in June “reaffirmed the principles” in Planned Parenthood of Southeastern Pennsylvania vs. Casey. The Louisiana case was argued before the 5th Circuit.

In the Pennsylvania case, the high court fashioned a new “strict scrutiny” test for judging whether state abortion regulations are valid. Under that test, an abortion regulation that imposes an “undue burden” on the right to abortion “would be subjected to the highest judicial scrutiny,” the court said.

See ABORTION, Page 4A