

Utah Takes Cues From Courts On Anti-Abortion Bills

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Courts around the country have handed down big wins for anti-abortion laws the past several years. Many conservative states, including Utah, have used those cases to pursue similar laws. This year, three major abortion bills are working their way through the Utah legislature, all based on recent court decisions or an anticipated court decisions.

KUER's Caroline Ballard spoke with political reporter Sonja Hutson to better understand these bills.

This interview has been edited for length and clarity.

Caroline Ballard: Sen. Curt Bramble's, R-Provo fetal remains bill would require doctors to ask someone who's just had a miscarriage or abortion if they would like the fetus to be buried or cremated, right?

Sonja Hutson: Yes, and if the person doesn't choose, then the medical facility where the abortion or miscarriage is happening has to bury or cremate the fetus. They can't dispose of it as medical waste, which is the current standard practice.

This bill is modeled off an Indiana law that the U.S. Supreme Court upheld back in May, and Bramble has cited that case as a reason for bringing forward this bill.

CB: This bill has now passed both the Utah House and Senate. Why do Bramble and other supporters of it say it's necessary?

SH: They say that some women don't think to ask about this until several hours or several days after it happens, and by that point the fetus has often times already been disposed of as medical waste.

Proponents of the bill also make a sanctity of life argument that these fetuses are human beings and deserve the same dignity and respect as any other human being.

CB: What about opponents? What do they have to say?

SH: They say that just asking adds more trauma to an already really traumatic situation, whether that's a miscarriage or an abortion. And it can be really difficult for some people to think of the pregnancy loss as a death rather than just a pregnancy loss.

Opponents also say that this bill is essentially putting into statute that the fetus has the same rights as the person carrying the child. It's kind of a backdoor way of putting that definition of life into law.

CB: There is another bill making its way through the Utah legislature that the United States Supreme Court actually paved the way for. Rep. Steve Christiansen's, R-West Jordan, bill requires people who want to get an abortion to get an ultrasound 72 hours beforehand.

SH: Christiansen said his bill is essentially the same as a Kentucky law, which faced a legal challenge from the ACLU. The U.S. Supreme Court opted not to hear that case last year, so a lower court ruling that upheld the law allowed that Kentucky law to go into place.

[Christiansen's] bill has pretty specific requirements for the ultrasound. It requires that the heartbeat be made audible and also that the person giving the ultrasound describe the images on the screen, as well as where the fetus is in the uterus.

CB: But different courts don't all agree on this, right?

SH: Yeah, absolutely. What Christiansen often doesn't bring up is that there was another federal circuit court that ruled that a similar North Carolina law does violate the First Amendment and therefore is unconstitutional. The Supreme Court also declined to hear that, so that law was struck down.

And according to a constitutional analysis done by the legislative general counsel's office here in Utah, there is a, "moderate chance" that the district court here would find that the ultrasound requirement is unconstitutional and violates the First Amendment.

CB: Christiansen has branded this ultrasound legislation as an "informed consent bill." What does that mean? What's the argument there?

SH: He says that through this bill, he wants to give patients all the information about an abortion so that they can make an informed decision.

But opponents say that this is an unnecessary procedure: that medical providers already do ultrasounds beforehand, and patients are allowed to ask to see the images. They also say that it's a government intrusion on a personal medical decision made between a patient and their doctor, and that argument is one that's made against all of these bills.

CB: The third bill comes from Sen. Dan McCay, R-Riverton, and it is an all-out abortion ban, regardless of how far along the pregnancy is. But it only goes into effect if the United States Supreme Court overturns *Roe v. Wade*.

SH: Yeah, and McCay says the U.S. Supreme Court will likely have to act on this in the next two years. That's his own personal analysis of things.

There is a conservative majority on the court now that Justice Brett Kavanaugh was appointed and confirmed. And the Supreme Court is hearing an abortion case this session, but it's about doctor qualifications and so it wouldn't overturn *Roe v. Wade*. But, definitely, I think people here in Utah and across the country will be watching the Supreme Court very closely to see if it acts on *Roe v. Wade*.