

# An act of social cruelty: South Dakota bars abortions for victims of rape and incest

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Embarking on a deliberate challenge to the historic *Roe v. Wade* decision by the Supreme Court that legalized abortion throughout the United States, the South Dakota state legislature voted last week to outlaw all abortions except where the life of a pregnant woman was in danger. Governor Mike Rounds, a Republican like a majority of the state lawmakers, said he would sign the bill.

The cruelty of the new law is demonstrated by the refusal of the state senate, in response to appeals from opponents of the bill, to add exceptions for rape and incest. The upper house passed the bill by a vote of 23-12. The state senators debated for only one hour whether to compel victims of rape and incest to have their abuser's baby.

The right-to-life forces have been emboldened by hopes that the two new Supreme Court justices named by President Bush, Chief Justice John Roberts and Associate Justice Samuel Alito, will vote to overturn *Roe v. Wade* if a direct challenge is brought before the high court.

The bill is the first direct challenge to abortion rights since the high court reaffirmed the 1973 decision in its 1992 case *Planned Parenthood v. Casey*. After the retirement last month of Sandra O'Connor, five of the justices who comprised the 6-3 majority in the 1992 decision remain on the court.

The Bush appointments still leave a presumptive 5-4 majority in favor of abortion rights, but spokesmen for one right-to-life group cited the possibility that Associate Justice John Paul Stevens, who is 85 and a supporter of *Roe v. Wade*, might retire or die before the South Dakota case makes its way through district and appeals courts to the Supreme Court.

The new state law takes effect July 1, but will undoubtedly be challenged in court before then,

forestalling any immediate impact. It criminalizes the provision of an abortion by a doctor, with a sentence of as many as five years in prison. A woman receiving an abortion could not be charged.

South Dakota is a rural farming state in the upper Midwest, not a southern "Bible belt" state. There is considerable doubt that the population as a whole supports an absolute prohibition on abortion rights, and the Republican-controlled legislature refused to put the matter to a referendum vote, fearing the ban might be defeated.

The new law puts the political spotlight on the substantial erosion of a woman's right to abortion in large portions of the United States. Since the last major Supreme Court reaffirmation of *Roe v. Wade*, in the 1992 *Casey* decision, more than 400 state laws have been enacted setting up one or another obstacle to abortion rights, including parental consent laws for teenagers, waiting periods, abusive regulation of abortion clinics, and requirements that women receive counseling, frequently consisting of anti-abortion propaganda.

In many states, the combination of government harassment and the ever-present threat of terroristic violence by anti-abortion fanatics have sharply limited availability of the medical procedure. South Dakota is one of three states that have only a single abortion provider: in this case, a Planned Parenthood clinic in Sioux Falls, in the southeast corner of the state, as much as 400 miles away from many residents.

Because of the danger of financial retaliation and physical violence, no South Dakota doctor performs abortions. The Planned Parenthood clinic relies on rotating shifts of ob-gyn doctors who fly in from Minneapolis-St. Paul, the nearest major city.

Underscoring the backward and reactionary social

perspective of the anti-abortion campaign, the same forces are responsible for major cuts in contraceptive and related medical services for poor women and teenagers, according to a report released February 28 by the Alan Guttmacher Institute, the leading US group researching reproductive issues.

From 1994 to 2001, 33 states have cut funding for non-abortion-related family planning services, restricted access to birth control and curtailed the scope of sex education courses in the public schools. Christian fundamentalist groups have targeted many of these programs for cutback or elimination, claiming that they promote or sanction “immorality”—i.e., sexual activity before marriage.

All these cutbacks contribute to an increase in the number of unwanted pregnancies, particularly among the most vulnerable section of the population—teenagers and women with low income or little education. Sharon L. Camp, president of the Guttmacher Institute, told the *Washington Post*, “Unintended pregnancy in the United States is twice as high as in most of Western Europe. As a direct result, abortion rates are twice or three times as high as European countries. There is no reason why abortion rates need to be as high as they are.”

The perverse result of this combined policy—restricting access to contraception and denial of abortion rights—is to compel many women, particularly those who are young, poor or uneducated, to have babies long before they are emotionally, socially or economically ready.



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