



Parental notification fight has no solution in sight

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By Shir Haberman

PORTSMOUTH - Both a sponsor of New Hampshire's parental notification bill and its opponents are claiming victory after Wednesday's U.S. Supreme Court ruling, but a Manchester attorney said he believes the issue is far from resolved.

"I think the U.S. Supreme Court expects New Hampshire to have a parental notification law," said former gubernatorial candidate **Ovide Lamontagne**, who is a lawyer with firm of **Devine, Millimet & Branch**. "How much more refined and more limited the law will be is what the District Court will determine."

The justices, in a rare unanimous abortion ruling, agreed that the 2003 New Hampshire law could make it too hard for some ill minors to get an abortion, but at the same time they were hesitant about stepping in to fix the statute. They told the 1st U.S. Circuit Court of Appeals in Boston to reconsider whether the entire law is unconstitutional.

The statute requires that a parent be informed 48 hours before a minor child has an abortion, but makes no exception for a medical emergency that threatens the youth's health.

The justices agreed that the lower court went too far by permanently blocking the law that requires a parent to be told before a daughter ends her pregnancy.

Justice Sandra Day O'Connor wrote, "Making distinctions in a murky constitutional context, or where line-drawing is inherently complex, may call for a 'far more serious invasion of the legislative domain' than we ought to undertake."

Lamontagne said it will be up to the Circuit Court to determine what specifics in the state statute must be changed or revised in order to make the law constitutional. If the court finds the entire bill fails the constitutionality test or recommends changes that make any issue involving the health of the mother grounds for bypassing the parental notification law, there may be more federal challenges.

"The (circuit) court is being asked to consider more specifically under what circumstances this statute violates constitutional provisions," **Lamontagne** said. "There will be another round of appeals if those supporting this statute believe the circumstances are defined too broadly."

While the state Legislature could decide to repeal the parental notification statute and pass a new one that more closely resembles similar laws enacted in other states that have passed constitutional muster, **Lamontagne** said he believes that would be the wrong approach.

"It's very possible the Legislature could develop its own law and not want to leave it up to the court to tell us what to do," the attorney said. "But it would be best, I think, for the court to tell us where we cross into unconstitutionality because we're in unknown territory."

Lamontagne said it was significant that the Supreme Court ruled unanimously on this case.

"It shows there can be results, despite the differences of opinion, that can be reached when the court doesn't have to tread into the abortion issue," he said.