

## Summer Daily Nebraskan

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# High court rules against state's partial-birth ban

■ Justices rule 5-4 that Nebraska's partial birth abortion ban violates constitutional rights.

LINCOLN (AP) — Activists on both sides of the abortion debate in Nebraska reacted to word Wednesday that the U.S. Supreme Court struck down the state's ban on so-called partial-birth abortions.

By a 5-4 vote, the justices said the Nebraska law violates women's constitutional right by imposing an "undue burden" on their decisions to end their pregnancies.

Abortion rights supporters hailed the ruling but expressed concern in the close vote.

"It also is an indication to all of us of how the whole Roe vs. Wade decision hangs in the balance by just one vote — yet again," said Steven Emmert, president and CEO of Planned Parenthood of Omaha-Council Bluffs.

Abortion rights opponents decried the ruling.

"The Supreme Court of the United States chose not to listen to the people of the United States," said Bob Blank, president of Metro Right to Life, an anti-abortion rights group in Omaha.

The ruling was the court's first major decision on abortion in eight years, when it reaffirmed the core holding of its 1973 Roe vs. Wade ruling that said women have a constitutional right to end their pregnancies.

Wednesday's ruling did not appear to immediately affect similar laws in 29 other states. But their supporters are likely to have a harder time defending them in lower courts.

Blank said he was certain several Nebraska lawmakers would be ready to introduce abortion-related bills in the state's next legislative session. These bills would attempt to ban the same abortion procedure while meeting the guidelines the Supreme Court sets forth in its opinion.

Nebraska's 1997 law was challenged by Dr. Leroy Carhart of Bellevue, one of three doctors in Nebraska known to perform abortions. Carhart is the only doctor in the state known to perform abortions after the 16th week of pregnancy.

"Today's victory is more

than a victory for me .... It is more than a victory for abortion providers," Carhart said. "This is a victory for all Americans who believe that the government must not be allowed to meddle in the private decisions best left to women, their families and their doctors."

Carhart's clinic was open Wednesday but no abortions were scheduled. No protesters were outside the building when the decision came down.

*"This is a victory for all Americans who believe that the government must not be allowed to meddle in the private decisions best left to women, their families and their doctors."*

Dr. Leroy Carhart  
abortion provider

"We're happy with the decision, but we've won the battle not the war," Sandy Mantooth, a worker at Carhart's clinic.

Carhart has maintained the Nebraska ban was written in such a way that it could be used to outlaw all abortions. Had the law been upheld, Carhart said, he would have simply used other abortion procedures.

"It's shameful ... that Dr. Leroy Carhart will be able to continue this grisly practice unfettered," said Julie Schmit-Albin, executive director of Nebraska Right to Life.

Partial-birth abortion is not a medical term, but it is typically used by abortion rights opponents in describing the procedure.

The Nebraska law defined

the procedure as "partially delivering vaginally a living unborn child before killing the unborn child and completing the delivery."

Nebraska Attorney General Don Stenberg, who defended the case before the court, has used the case as the cornerstone to his campaign as the Republican candidate for U.S. Senate.

He said Wednesday, however, that he fought for the ban not because of a political agenda but because he feels that partial birth abortion is wrong.

"My campaign had nothing to do with this — we wanted to win this case," he said. "My concern is that this simply leaves it up to Dr. Carhart or any other abortionist to write the law for the state of Nebraska."

"This barbaric practice is unstoppable in our society," he said.

Stenberg said the decision shows the need for greater scrutiny by Congress of presidential nominees to the high court to make sure they follow the constitution and not engage in "social legislation."

Janet Benshoof, president of the Center for Reproductive Law & Policy and one of the Carhart's lawyers, said the ruling proved that such abortion bans were veiled attempts to attack basic abortion rights.

"The opinion exposes their political agenda," she said. "It confirms that this is a broad-scale political attack on Roe and has nothing to do with one method."

"It does expose the lies that have been perpetuated by people like Attorney General Stenberg."

Stenberg told the high court in April that the ban is limited to a procedure doctors call D&X, or dilation and extraction, which involves cutting the skull of a fetus and draining its contents before extraction.

A more common procedure is dilation and evacuation, or D&E, in which an arm or leg of a live fetus may be pulled into the birth canal during the abortion operation.

The court said the Nebraska law, which is aimed only at the D&X method, could criminalize the D&E method as well.

The Nebraska law did not allow partial-birth abortions even if doctors considered that method the best way to guard a woman's health.