

# STATE NEWS WEEKLY SUMMARY CONTINUED



Edmondson issued an opinion embracing Turpen's interpretation, the plaintiffs related.

However, the plaintiffs insist, the same day the nation's high court announced its decision in the Ohio case it also held in *Simopoulos v. Virginia* that regulation of abortions performed in abortion clinics was constitutional and consistent with the provisions of *Roe*. Also, the plaintiffs claim, the US Supreme Court subsequently "opened wide the door for regulation of abortion" by modifying *Roe v. Wade* in 1992 in *Planned Parenthood v. Casey*.

The plaintiffs also note that the Oklahoma Supreme Court held in *York v. Turpen* in 1984 that an attorney general's opinion declaring an act of the Legislature unconstitutional "is advisory only and not binding upon state officials until finally so determined by an action in a court of competent jurisdiction."

The plaintiffs ask the district court to issue writs of mandamus to compel the defendants to comply with state law and enforce state regulations on abortion clinics.

Defendants in the lawsuit are Drs. Dan Fieker, Gordon H Deckert, Glen Diacon Jr., Brent Smith, Jay A. Gregson and John B. Carmichael, along with Frank W. Merrick, Walter Scott Mason III and Beth Anita Gordon, all of whom are members of the Oklahoma State Board of Health; Dr. Jerry Nida, the state health commissioner; and Attorney General Drew Edmondson.

"Not one of the people named in this lawsuit have the capacity to file a criminal charge against anybody for violation of abortion laws," Edmondson said after learning of the lawsuit. "Only the district attorney in the jurisdiction of the clinics has that capacity."

Edmondson added that none of those involved in the lawsuit had spoken with him about their concerns.

"Clearly, this is nothing more than grandstanding. But this is not a harmless lawsuit. It is offensive to me that they are using the courts and taking my staff away from real work to make a political point. In fact, we are researching the possibility of recovering costs of this action."

Besides Ferguson, other plaintiffs in the lawsuit are Reps. Robert Worthen, Dan Webb, Leonard Sullivan, Charles Key, all R-Oklahoma City; Rep. Charles Gray, D-Oklahoma City; Rep. Frank Davis, R-Guthrie; Rep. Tim Pope, R-Mustang; Reps. Joan

Greenwood and Carolyn Coleman, both R-Moore; Rep. John Smaligo and Sen. Grover Campbell, both R-Owasso; Reps. Wayne Cozort, Fred Perry, John Sullivan and Mike Thornbrugh, all R-Tulsa; Rep. Scott Adkins, R-Broken Arrow; Rep. Wayne Pettigrew, R-Edmond; Rep. Richard Phillips, R-Warr Acres; Rep. Doug Miller, R-Norman; Rep. Jim Reese, R-Deer Creek; and Rep. Mike O'Neal, R-Enid.

Other plaintiffs are Dr. Craig Evans and Sharon Golmoradi, both of Oklahoma City.

—SHAWN ASHLEY  
05/06/96

## ABORTION RULE EFFORT SIDETRACKS OMBUDSMAN BILL

■(GIT) An effort to protect the state's long-term care ombudsman program from federal budget cuts was sidetracked on Monday when a state lawmaker pressed for the addition of new language setting rules for abortion facilities.

Rep. Dan Webb, R-Oklahoma City, successfully challenged the acceptance of the conference committee report for **HB2407** and succeeded in having the bill returned to conference committee where the abortion facility rules were directed to be made a part of the bill. The bill, by Rep. Abe Deutschendorf, D-Lawton, would specify the purpose of the State Long-term Care Ombudsman Program to improve the quality of life and the quality of care of elderly citizens residing in long-term care facilities in Oklahoma.

Supporters of the bill, fearful of federal budget cuts, say the measure is necessary to help keep the program alive.

But Webb said his proposal, which directs the Board of Health to set rules which establish minimum safety standards for all entities which perform abortions and for the inspection of abortion clinics by the state's Department of Health, was "a matter of life and death."

Webb said he had learned from the health department that current statutes did not go far enough in giving the department the language it needed to deal with abortion clinics.

That point contradicts a claim made by plaintiffs in a lawsuit filed on Monday against the attorney general and Department of Health. The plaintiffs in that case, which includes 22 lawmakers, said the state's statutory definition of hospital is also applicable

to abortion clinics.

Several House members also expressed concern that if the abortion-related language is added to the bill that it would kill the original legislation. That was the case, Webb noted himself, in a bill by Rep. Mark Seikel, D-Harrah, that died in committee after efforts to add similar language.

Despite the apparent opposition on the floor to Webb's proposal, House members voted 40-53 against accepting the conference committee report as presented. Webb then requested and won approval for the bill to be returned to the conference committee with instructions to add his proposed language.

If the conferees cannot agree on the language, Rep. Jim Glover, D-Elgin, said in response to a question, the conference committee report can be brought back before the House and Deutschendorf can ask that the original report be considered.

—SHAWN ASHLEY  
05/06/96

## WEBB SAYS OMBUDSMAN BILL KILLED BY AUTHOR, NOT AMENDMENT

■(OKLAHOMA CITY) "If Rep. Abe Deutschendorf is looking for the person who killed his bill, he need only look in the mirror," Rep. Dan Webb, R-Oklahoma City, said on Thursday.

Webb was referring to his proposed amendments to a bill that would have preserved the state's Ombudsman program for nursing home residents.

The controversy between the lawmakers began Monday when Deutschendorf, D-Lawton, brought up **House Bill 2407**. The measure would have preserved the State Long-term Care Ombudsman Program, which trains volunteers who monitor the treatment of nursing home residents.

Webb moved to send the bill back to a conference committee with instructions to attach two provisions relating to the regulation of abortion by the state Health Department.

The first provision requires the Health Department to promulgate rules on the safe termination of pregnancies. The second provision allows the department to levy a \$100 fine on medical professionals who fail to report they have performed an abortion.

The House overwhelmingly agreed with Webb and returned the bill to the conference committee with the instructions.

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