



SOUTH DAKOTA VOTER GUIDE

Repealing a Rigid and Too Restrictive Abortion Law

“This law simply goes too far.”

Vote No on Referred Law 6
SEPTEMBER 26 - EARLY VOTING STARTS
NOVEMBER 7 - ELECTION DAY

Repealing a Rigid and Too Restrictive Abortion Law

Fellow South Dakotans,

On March 6, Governor Mike Rounds signed into law the most restrictive abortion ban of any state in the nation.

We believe this abortion law is rigid and too restrictive and we ask you to VOTE NO ON REFERRED LAW 6 and seek its repeal.

Why vote no?

This law has no exception for the health of a woman. A pregnant woman and her family will be left with no options to treat serious illnesses like breast cancer or heart disease because essential medications could compromise her health and the developing pregnancy.

Rape and incest victims also have no options. Many victims of rape and incest, including young women, are too ashamed or afraid to come forward in time to prevent the pregnancy.

The law allows the government to intrude into a difficult, private decision that should be made by a woman, her family and her doctor.

According to the Attorney General, **this abortion law will likely be challenged in court** and may be declared in violation of the U.S. Constitution. The State of South Dakota will likely be required to pay attorneys' fees. The big winners will be lawyers. **With limited resources, we should focus on education, health care and jobs, not fighting lawsuits about issues that divide us.**

The law would make performing abortions, referring a patient for treatment or prescribing medical abortion pills a felony, subjecting doctors to sentences of five years in prison for protecting the health of their patients.

Abortion is already rare in South Dakota. Making abortion illegal in South Dakota, will not reduce the need for abortion; it endangers the lives of our women. We don't need this law that leaves us with no options.

Sincerely,



Dr. Maria Bell



Jan Nicolay



Dr. Marv Buehner

Background

Compared to other states, abortions are fairly rare in South Dakota. We are 2nd to last in overall abortions and 3rd from the bottom in abortions per capita in the U.S.

But, for years, ideologically conservative interest groups from out-of-state have used the South Dakota legislature as their pawn to push their national social agenda on the people of our state. Divisive issues like abortion, restricting contraception use and abstinence-only sex education dominate our legislature while more pressing issues like education, health care and job creation are pushed aside.

On February 24 of this year, the South Dakota Legislature passed the most restrictive abortion law in the nation and created a national controversy around this difficult, divisive issue. You can read the full text of the bill here:

<http://legis.state.sd.us/sessions/2006/bills/HB1215enr.htm>

On March 6, Governor Mike Rounds reluctantly signed his name to this bill, saying that he believes it goes too far and that it's not the right approach to ending abortions. The Governor went so far as to say "I did not write this bill. It's not my bill."

The Legislature and the Governor know that this bill will be the subject of numerous lawsuits and court challenges. After passing this legislation, they also passed a bill to set up a "Legal Defense Fund" to pay attorneys to defend it and admitted that it could cost the state millions of dollars to defend this law all the way up to the Supreme Court.

Since its passage, there has been tremendous concern across the state. Opponents of the bill formed the **South Dakota Campaign for Healthy Families** (www.sdhealthyfamilies.org), a group of citizens, doctors, nurses, ministers, homemakers, teachers, business owners and elected officials – Republicans and Democrats – and circulated petitions to bring this new law to a public vote. Nearly 40,000 registered voters from every county in the state signed the petitions.

On November 7, South Dakota voters will have a chance to repeal the new law. If the law is repealed, it will not take effect. However, it is important to note that South Dakota already has very restrictive laws to help reduce the number of abortions that take place in our state. You can read more about our state's current restrictions in this voter guide.

Referred Law 6 - A Rigid and Too Restrictive Law

- The new law bans all abortions in South Dakota except to prevent the death of the woman.
- It prohibits abortion even if a woman's health is threatened.
- It prohibits abortion if a woman is the victim of rape.
- It prohibits abortion if a woman is a victim of incest.
- The law allows for the prosecution of doctors with sentences of five years in prison and a \$10,000 fine for performing the procedure even if the health of a woman is threatened.
- The law does nothing to make contraception more available, including emergency contraception (the morning after pill) which is not available in nearly half the pharmacies in South Dakota, especially in rural areas.
- The law outlaws abortion in South Dakota only, not neighboring states.

South Dakotans Believe this Law is Too Restrictive

South Dakota's abortion ban is the most restrictive law in the nation. People from all across the state have expressed their concern that it simply goes too far.

"By not providing an exception for a woman who faces serious health risks, the law is simply too restrictive," Dr. Tom Dean, Wessington Springs

"I am opposed to this ban because it is too rigid as it fails to provide exceptions for rape and incest victims." Mary L Foster, Spearfish

"If my wife or any of my daughters are ever raped, the last thing they need is the government telling them what their reproductive options are. I don't want that for them, and that's not what they want either. I'm sure of it. They've all told me so." William C. Fleming, Rapid City

"We must stand fast and recognize that this is not the time, nor the place for state intervention, but rather a decision that must kept between the persons directly involved, the woman, her physician, and those she chooses to include." Gary Snow, Pierre

The Law Has No Health Exception

Perspective from Dr. Maria Bell, Sioux Falls

“As a physician in South Dakota, I have serious concerns about how this law will interfere with how I care for my patients. If this law passes, a female patient here in South Dakota will not receive all the medical options available to her.”

“As a gynecologic oncologist, I am in the position to diagnose pregnant women with cancer. Approximately 1 in 1000 - 1 in 1,500 live births will be complicated by cancer. I have diagnosed many cancers during pregnancy throughout my career, and have been in the position to discuss these emotional topics with expectant mothers and their family. The most common cancers diagnosed during pregnancy in descending order are breast, leukemia and lymphomas, melanoma, gynecologic cancer, and bone tumors. If this diagnosis is early in the pregnancy, administration of chemotherapy or radiation therapy or performing surgery could abort the pregnancy.”

“The current ban only allows abortion to save the life of the mother, however in the situation of cancer, most women will not die during the pregnancy due to the cancer, but the woman's life expectancy may be shortened if we delay treatment of their cancer. If Referred Law 6 isn't repealed, pregnant women will not be able to treat serious health diseases like these - putting their health at risk," Maria Bell, MD.

Perspective from Dr. Marvin Buehner, Rapid City

“This law would greatly hamper my ability to offer standard medical care to my pregnant patients with serious medical problems. Options for treating pregnant women with heart disease, strokes, kidney disease, advanced diabetes, premature rupture of membranes or even cancer would be decided in the criminal courts not in the doctor's office.” Marvin Buehner MD

Perspective from Doctors and the South Dakota State Medical Association

Doctors belonging to the South Dakota State Medical Association say Referred Law 6 will put women's health at risk. When a pregnancy creates a debilitating health condition for a woman, her doctors and nurses won't be able to share information and treatment options they believe to be in her best interest. So when a woman suffers, so will her other children and her whole family. That's unsafe and unfair.

Specifically, Referred Law 6 does not allow an exception to prevent serious health problems or permanent disability to a woman. A pregnant woman and her family will be left with no options to treat illnesses like breast, cervical or ovarian cancer because pregnant women cannot take many medications or radiation.

The South Dakota State Medical Association has affirmed the position of the American Medical Association “to strongly condemn interference by the government or other third parties that causes a physician to compromise his or her medical judgment as to what information or treatment is in the best interest of patients.”

Rape and Incest Victims Have No Options

What if your mother, sister or daughter was the victim of rape? You'd want her to receive the medical treatment she needs. But Referred Law 6 eliminates an important option for victims of rape or incest. Under this law, women will be punished twice as now state government dictates that a rape or incest victim must carry the pregnancy to term. Women will be prevented from making personal, responsible decisions with their families and doctors.

Because many victims of rape and incest, including young women, are too ashamed or afraid to come forward in time to prevent the pregnancy, the lack of access to emergency contraception is a big problem. A woman must use emergency contraception within 72 hours in order to have a chance of preventing a pregnancy. Since nearly half of the pharmacies in South Dakota don't carry it, this is not an option for most rape and incest victims, especially those living in rural areas. This law does nothing to make this option more available.

As hard as it is to believe, this new law does nothing to prevent a rapist from eventually getting custody rights of a child conceived during a crime. Under this law, a woman who is raped and forced by the state to go through with an unintended pregnancy might have to share rights with the very criminal who raped her.

Doctors Will Go to Jail

Many doctors agree that this legislation potentially criminalizes the provision of medical care and procedures that are in the best interest of patients. They believe this legislation potentially criminalizes communication between physicians and their patients regarding medical care and procedures and will prevent physicians from freely discussing with or providing information to patients about medical care and procedures.

According to Attorney David Gerdes, general counsel for the SD State Medical Association, “It is at least possible that a prosecutor or a court will decide that a physician performing a procedure qualifying as an abortion under the language of the new statute can be prosecuted for first degree murder.” First degree murder is a Class A Felony – a capital offense – in South Dakota.

Government Intrusion into Difficult, Private Decisions

“Proponents of these bans claim to be conservatives, but have finally shown their true colors by promoting the ultimate in big government intrusion,”
Jennifer Stockman, Republican Majority for Choice.

This law takes a difficult and private medical decision away from a woman, her family and her doctor and puts it in state government’s hands.

The South Dakota State Medical Association strongly condemns interference by the government or other third parties that causes a physician to compromise his or her medical judgment as to what information or treatment is in the best interest of patients.

This legislation will interfere with good medical practice and cause physicians to compromise their medical judgment as to the information and treatment they believe is in the best interest of patients.

Abortion Law Will Be Challenged in Court

Along with passing this restrictive abortion law, the legislature also passed a law establishing a “Legal Defense Fund” to pay attorneys to defend this law in court. You can read SD154 at: <http://legis.state.sd.us/sessions/2006/bills/SB154enr.htm>

Here’s what South Dakotans on both sides of the issue are saying about the potential court challenge of the law:

“If this [the abortion ban] does go to court, the taxpayers of South Dakota, through legislative action, will be responsible for picking up the cost of defending it,”
Governor Mike Rounds.

“The actual lawsuit could cost two to three million dollars,” Leslee Unruh.

“If approved, HB 1215 will likely be challenged in court and may be declared to be in violation of the US Constitution. If so, the State may be required to pay attorneys’ fees and costs,” South Dakota Attorney General Larry Long.

“Hopefully, this will go to the Supreme Court. That’s what the intent was going into it,” State Representative Kathy Miles, Sioux Falls

"What can we as a state possibly gain by passing a bill that is unconstitutional?"
State Senator Clarence Kooistra

“Because this new law is a direct challenge to the Roe versus Wade interpretation of the Constitution, I expect the law will be taken to court and prevented from going into effect this July. That challenge will likely take years to be settled and it may ultimately be decided by the United States Supreme Court,” Gov. Mike Rounds.

“Out-of-state groups who pushed the passage of this bill don’t care that it will cost our taxpayers millions to defend this law. It will be lawyers who win, while precious tax dollars are taken away from public education, creating good-paying jobs and lowering the cost of health care,” State Representative Elaine Roberts

Out-of-state Group’s Agenda Hurts More Important South Dakota Priorities

Referred Law 6 won’t spend your tax dollars on education, health care or good-paying jobs. Instead, your tax dollars will pay lawyers who will profit by defending this unconstitutional law in court.

If passed in November, Referred Law 6 will be challenged in court all the way up to the United States Supreme Court and eventually overturned. And while out-of-state special interest groups are using South Dakota for their own political purposes, who will foot the bill? South Dakota taxpayers.

Of all the debates facing our state, this shouldn’t take priority. Limited state resources shouldn’t be spent on attorneys’ fees defending unconstitutional abortion laws. Our priorities should be creating good-paying jobs, making health care more affordable and funding education adequately.

What Do Churches Say About this Law?

“Abortion has been a contentious issue for centuries in most every culture and in most every religion. Though I am not in favor of abortion, I believe the law passed by the South Dakota legislature is too restrictive leaving no room for what my church calls "tragic conflicts of life" that suggest abortion be kept safe and legal in certain circumstances.” Rodney Gist United Methodist Minister, retired.

Different faiths have different views on abortion. Many of the mainstream churches have doctrines that state women should have access to abortion if their health is in danger or if they are victims of rape or incest.

The Evangelical Lutheran Church, the United Methodist Church, the United Church of Christ, the Presbyterian Church (USA) and the Episcopal Church are among the many denominations that have doctrines in disagreement with the restrictive nature of this law.

To read specific positions on abortion, go to the church websites listed below:

Evangelical Lutheran Church: www.elca.org

United Church of Christ: www.ucc.org

United Methodist Church: www.umc.org

Presbyterian Church: www.pcusa.org

Episcopal Church: www.episcopalchurch.org

Abortion is Already Rare and Restricted in South Dakota

Compared to other states, abortions are fairly rare in South Dakota. We are 2nd to last in overall abortions and 3rd from the bottom in abortions per capita in the U.S.

In 2005 alone, the South Dakota Legislature passed five new abortion laws in our state. Already, this is perhaps the most difficult state in the country to get an abortion. Current South Dakota laws restricting abortion include:

- a 24 hour waiting period
- mandatory counseling to discourage the procedure
- parental notification for minors.

Ninety-seven percent of abortions in South Dakota are performed in the first trimester with the rest performed in a hospital in cases of medical complications.

There is only one clinic in the state that performs abortions and they do so, only one day a week by a physician who flies in from Minnesota.

Frequently Asked Questions

Q: Will this new law eliminate abortion?

A: This new law will not reduce the number of abortions; it will only cause women to go to neighboring states for an abortion or turn to dirty, unsafe abortions. The best way to reduce the number of abortions in our state is through prevention. We should make birth control more accessible, support full access to emergency

contraception, support comprehensive sex education and increase access to family planning services.

Q: Does any other state in the nation currently prohibit a woman from having an abortion if she is facing serious health complications?

A: Absolutely no other state has this kind of restriction. South Dakota shouldn't either.

Q: If the law is challenged in the courts, who will pay the costs of these lawsuits?

A: South Dakota taxpayers will pay for court challenges through the new Legal Defense Fund set up by Governor Rounds. As a matter of fact, the state may be stuck paying for the attorneys on both sides of the debate as they have in past legal disputes. As recently as this summer, a judge forced the State of South Dakota to pay Planned Parenthood's attorneys in Washington \$280,000 because the State lost another legal battle with Planned Parenthood.

Q: Will doctors really go to jail if they perform an abortion if the woman's health is endangered?

A: Yes. The law clearly prohibits a physician from performing an abortion for a pregnant woman who is diagnosed with breast cancer or other life-threatening diseases. If a physician does the procedure, he/she will face five years in prison and a \$10,000 fine.

Q: If a woman is a victim of rape or incest, can't she just take a pill to eliminate the possibility of a pregnancy?

A: If it were just that easy, yes. First of all, many women and girls, are too ashamed and often-times, too afraid to come forward after they are victimized by a rapist. Many aren't aware that a woman must take **emergency contraception within 72 hours of the incident in order to prevent a pregnancy**. Emergency contraception is also very difficult to get as nearly half the pharmacies in South Dakota don't carry this medication.

The American Medical Association predicts that 1.7 million unintended pregnancies could be prevented each year and thousands of abortions would not have to take place if women had emergency contraception more available to them. Supporters of the ban oppose making emergency contraception more available.

Referred Law 6 is Too Restrictive
Vote No on November 7

Repeal this rigid and too restrictive abortion law. Vote No on Referred Law 6.

Two ways to vote:

Starting September 26 and up until Election Day, you can cast your vote at your county auditor's office from 8am to 5pm. Anyone can vote early.

You can vote in your local precinct on Election Day, November 7 from 7am to 7pm local time.

Further Information or To Get Involved:

If you would like further information about voting in South Dakota or about how to get involved in the campaign to repeal Referred Law 6, please contact:

South Dakota Campaign for Healthy Families

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605-221-5642

www.sdhealthyfamilies.org

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