



Written by [Dave Bohon](#) on September 17, 2013

Judge Dismisses Part of Legal Challenge to N.D. Abortion Law

A federal judge has dismissed a legal challenge to North Dakota's historic legislation that bans abortions on [pre-born babies suffering from genetic abnormalities such as Down Syndrome](#). The law, signed in March by Governor Jack Dalrymple, also bans sex-selection abortions, and prohibits all abortions after about the sixth week of pregnancy — when a fetal heartbeat can be detected.



The Fargo, North Dakota-based Red River Women's Clinic, the state's sole abortion provider, filed the suit in June to have the new law blocked. U.S. District Judge Daniel Hovland granted the clinic's request to drop the part of the suit challenging the gender and genetic defects abortion ban, after clinic officials conceded that they don't perform such abortions anyway. That portion of the lawsuit was dismissed without prejudice, so the clinic may revive the challenge later.

The clinic, which filed the suit with the help of the New York-based Center for Reproductive Rights, will continue to try to have the six-week abortion ban overturned, arguing that it represents a hardship on women in North Dakota trying to abort their babies. "The passage of this law is nothing short of a frontal assault on the U.S. Constitution, 40 years of Supreme Court precedent, and the health and fundamental rights of women," said the Center for Reproductive Rights' Nancy Northrup when the bill was passed in March.

Some analysts believe that the clinic opted to drop the other parts of the lawsuit because there was little chance they would succeed, but the six-week abortion ban may have a better chance of being overturned. In fact, Judge Hovland himself blocked the ban in July and called it "clearly invalid and unconstitutional."

Still, dismissal of the portion of the lawsuit challenging the ban on sex-selection or genetic abnormality abortions should be seen as a victory, for now. [LifeNews.com](#) noted that when Dalrymple signed the bill into law, North Dakota became the fifth state to ban sex-selection abortions, and the first to prohibit the procedure based on genetic defects such as Down Syndrome. "When diagnosed before birth, such genetic abnormalities prompt couples to have abortions 90 percent of the time," the pro-life website pointed out.

Among the pro-life leaders who commended North Dakota for protecting the unborn was Dr. Charmaine Yoest of [Americans United for Life](#), who made special note of the genetic defects and sex-selection abortion bans. "A civil society does not discriminate against people — born and unborn — for their sex or for disability," said Yoest in a statement. "We should be celebrating diversity, not destroying it."

North Dakota recorded a total of 1,247 abortions in 2011, and the Planned Parenthood-aligned Guttmacher Institute projected that more than 75 percent of all abortions would disappear in the state if the law were fully enforced.

Tom Freier, executive director of North Dakota Family Alliance, applauded the judge's ruling, saying



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that it affirmed his state's pro-life culture. "We really believe this is the will of the people," Freier told Focus on the Family's [CitizenLink.com](#). "The legislature passed the measure overwhelmingly. The people understood that we don't want any abortions, especially those based on gender selection or any abnormality."



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