

Despite U.S. Supreme Court action, Fitzgerald plans to proceed with bill barring selective abortions

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The state Senate still plans to move forward with a bill that would ban abortions on the basis of race, sex or disability despite the U.S. Supreme Court Tuesday declining to review a federal appeals court decision striking down a similar law in Indiana.

The Indiana law would prohibit doctors from performing an abortion if a woman is choosing the procedure because of the fetus' sex or race, or because of a diagnosis of Down syndrome or "any other disability." That language tracks closely with Wisconsin's AB 182, which passed the Assembly roughly two weeks ago.

But the U.S. Supreme Court left in place a 7th U.S. Circuit Court of Appeals decision striking down the Indiana law. In an unsigned opinion, the court said it intended to "follow our ordinary practice of denying petitions insofar as they raise legal issues that have not been considered by additional courts of appeals."

The 7th Circuit is the only appeals court to consider the issue so far.

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In its decision to strike down the Indiana law, a three-judge panel noted that it felt bound by the precedent set by the High Court's decision in the 1992 case *Planned Parenthood v. Casey*, which ruled that states may not prohibit abortions or place substantial obstacles in the way of women seeking them before fetal viability.

"These provisions are far greater than a substantial obstacle; they are absolute prohibitions on abortions prior to viability, which the Supreme Court has clearly held cannot be imposed by the state," wrote 7th Circuit Judge William Bauer in the decision on Indiana's abortion law.

A spokesman for Sen. Scott Fitzgerald, R-Juneau, told WisPolitics.com that the majority leader was undeterred by the Supreme Court punting on the issue and still planned to bring the bill up.

The Senate plans to be on the floor June 5.

See the Supreme Court decision:

https://www.supremecourt.gov/opinions/18pdf/18-483_3d9g.pdf

See the 7th Circuit decision:

<http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=-Display&Path=Y2018/D04-19/C:17-3163;J:Bauer;aut:T:fnOp:N:2142678:S:0>

See the Wisconsin bill:

<https://docs.legis.wisconsin.gov/2019/related/proposals/ab182>