

# Pro-Life Wisconsin: Dane County judge rules 1849 abortion ban applies only to feticide, not consensual medical abortion

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**Madison, WI – Today, Dane County Circuit Court Judge Diane Schlipper ruled that the whole of Wisconsin Statute 940.04 applies to feticide, the intentional killing of a preborn child without maternal consent, and not to consensual medical abortion. Judge Schlipper did not issue an injunction blocking the statute’s enforcement, as the three district attorneys who are defendants in the case agreed to respect her ruling. Pro-Life Wisconsin Legislative Director Matt Sande made the following comments:**

“Pro-Life Wisconsin wholly opposes this egregious ruling overturning Wisconsin’s abortion ban. To rule that all of [s.940.04](#) has nothing to do with a consensual, medically induced abortion defies the plain wording and meaning of the statute. It is an extraordinary leap in logic. Judge Schlipper misinterpreted a 1994 Wisconsin Supreme Court case to make her erroneous conclusion. The Wisconsin Supreme Court in *State of Wisconsin v. Glendale Black* only interpreted Section 2 of s.940.04 as applicable to feticide, stating Section 2 described no abortive-type medical procedure but rather the killing of an unborn quick child absent the mother’s consent, ‘quick’ meaning the gestational age at which the unborn child moves in utero. In so ruling, the Court tacitly acknowledged that Section 1, Section 5, and

Section 6 of s.940.04 do describe a consensual medical abortion. After all, the statute itself is entitled 'Abortion,' it makes an exception for a 'therapeutic abortion' to 'save the life of the mother' that is 'performed by a physician' and '(u)nless an emergency prevents, is performed in a licensed maternity hospital.' It is our hope that this misguided ruling will be promptly appealed."