

Abortion battles elsewhere may impact California

By Dan Morain, Sacramento Bee

In the past five years, 29 states have imposed new restrictions on abortions. California headed in the opposite direction.

Lest Californians think what happens beyond this state's borders will always stay there, meet Kimberly Yee.

Well-schooled in the ways of politics, Yee worked for the Pete Wilson and Arnold Schwarzenegger administrations. Now back home in Arizona, she is a first-term state senator who is leading efforts to curb abortion, a winning issue for a politician on the rise in her Republican-controlled state.



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"I've vowed to carry legislation for those who have no voice," Yee said by phone. "The politics of abortion are very different here."

With help from anti-abortion groups Center for Arizona Policy and Americans United for Life, Yee carried House Bill 2036, signed by Arizona Gov. Jan Brewer in 2012, to ban abortions past the 20th week of pregnancy.

Abortion rights advocates including the ACLU and Planned Parenthood sued to block the measure from taking effect. Reversing a federal judge in Phoenix who upheld the law, the San Francisco-based U.S. 9th Circuit Court of Appeals two weeks ago ruled that Yee's measure violated Roe v. Wade, the 40-year-old Supreme Court decision that legalized abortions nationally.

Yee's allies are certain to appeal. Although the U.S. Supreme Court takes up a fraction of the cases that are appealed to it, Arizona is at the head of the line of states that are mounting ever more aggressive challenges to Roe v. Wade.

California might seem worlds away from its next-door neighbor on the issue of abortion. In many ways, it is. This state's supreme court legalized abortion in 1969, four years before Roe v. Wade. California protects the right of privacy for everyone, including women wrestling with the most personal of issues. That's how it ought to be.

But even here, access to abortion remains an issue. In contrast to what is happening in most of the nation, however, legislators here are looking for ways to solve that issue, to their credit.

Five of the seven California counties with the highest rates of teenage births are in the southern end of the Central Valley. Tulare and Kern counties are first- and second-worst, followed by Kings, Madera and Fresno counties.

Not coincidentally, access to family planning and clinics that provide Medi-Cal abortions for low-income women is tight in those counties. There's one provider in Kern County, none in Tulare and Kings counties, two in Fresno, and one in Madera County, according to Access Women's Health Justice, which compiles such information.

Under current California law, only physicians are permitted to perform abortions. That limits access, given that doctors are

scarce in much of the state.

At the behest of Planned Parenthood and its allies, and backed by many physicians, Assemblywoman Toni Atkins, D-San Diego, is carrying a bill to authorize nurse practitioners, certified nurse midwives and physicians' assistants to be trained to perform first-trimester abortions.

Also at Planned Parenthood's urging, Assemblyman Richard Pan, a Sacramento Democrat who is a doctor, is pushing AB 980 to ease outdated building standards that are unique to clinics where abortions are performed and can add 20 percent to construction costs.

The Assembly approved Atkins' bill by a 48-22 vote and Pan's bill by a 47-21 margin. The Senate likely will approve them both.

Just as Kimberly Yee's bill never would pass in Sacramento, Atkins' and Pan's bills would not get out of committees in most other statehouses.

That's especially true since 2007, when a divided U.S. Supreme Court limited *Roe v. Wade* by upholding the federal Partial-Birth Abortion Ban Act signed by then-President George W. Bush.

Since then, 29 states have tightened abortion access. At least 10 states, including Arizona, adopted laws requiring that physicians perform ultrasounds before aborting pregnancies, according to the Guttmacher Institute, which tracks such developments.

Several states impose waiting periods, including one where the wait is 72 hours. Several others require so-called counseling for women that is intended to dissuade women from making what already is a tough decision.

Arizona is one of 10 states that passed laws all but banning

abortions after pregnancies reach 20 weeks. Arkansas passed a law to ban abortions past 12 weeks. North Dakota passed a law banning abortion after six weeks.

The Pew Forum on Religion and Public Life concluded in a primer on abortion law that the 2007 decision signaled that a majority on the court is willing to “rethink important premises in this legal debate, so it would not be surprising if the Supreme Court eventually were to take up the issues raised by this new restriction on the availability of abortions in the second trimester of pregnancy.” That’s where Arizona could come in.

The Supreme Court last week left in place an appellate court ruling that struck down an Indiana statute that defunded family planning clinics. But many more abortion challenges are en route, notably one involving Yee’s HB 2036.

Yee has ascended fast since returning to Phoenix in 2006, after spending two years as a deputy cabinet secretary to Schwarzenegger in Sacramento working on education issues. She spent time as a legislative aide in Arizona and as spokeswoman for Arizona’s state treasurer. Having ingratiated herself to conservatives, she was appointed to fill a vacant House seat in 2010 and won her Senate seat last year.

“Kimberly is a young, conservative, pro-life woman who is making waves on the national stage,” said Cathi Herrod, president of the Center for Arizona Policy, who helped Yee write HB 2036. Clearly pleased with the legislator, Herrod sees Yee as a future statewide candidate.

If the bill that Yee carried ever is implemented, physicians who perform abortions after 20 weeks could face six months in jail and \$2,500 fines.

Maricopa District Attorney Bill Montgomery, who supports the measure and is joining the appeal to the U.S. Supreme Court, said the law is defensible because the safety of women is at

greater risk when abortions are done after 20 weeks, and because fetuses feel pain at that point – claims disputed by the law’s opponents.

Michelle Steinberg, public policy director of Planned Parenthood of Arizona, noted that most abortions occur before the 20th week. Later abortions generally are done because fetuses have serious abnormalities. Hindering women from ending such pregnancies is especially pernicious.

“Who you elect influences how you get your health care,” said Kathy Kneer, president of Planned Parenthood Affiliates of California.

Women seeking help could come across the border, if they could afford the travel. Unlike most states, California’s constitution guarantees the right to privacy, though Arizona’s constitution has a privacy clause, too. California voters firmly support abortion rights. At some point, however, extreme steps taken outside California’s borders will have an impact here.