

LEAVITT DIDN'T KNOW OF ABORTION FILING

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Aides to Gov. Mike Leavitt said a mix-up explains his failure to tell key players he was dropping Utah's court appeal over its 1991 anti-abortion law.

Last month, state attorneys quietly withdrew federal appeals aimed at reinstating parts of the Utah law banning most abortions and requiring spousal notification. The action before the 10th U.S. Court of Appeals came days after Democratic Atty. Gen. Jan Graham took legal control of the case.

The move has left senior legislators and Utah anti-abortion forces stung over not being consulted before the state gave up on three years and \$1 million of litigation.

Leavitt's chief of staff, Charlie Johnson, said Monday the governor approved the decision in mid-September, but was not informed when the withdrawal was filed two weeks ago with the Denver-based appellate court.

"He didn't receive adequate information so he could have it on his radar," Leavitt press secretary Vicki Varela added. "This was a good decision; we just did not communicate it well."

Since first coming to office, Leavitt has called for an end to abortion litigation, particularly over appeals focusing on laws already struck down by federal courts.

"He feels strongly about defending the right to life," Varela said. "However, he does not believe the state should engage in litigation that we do not have a chance to win."

She said the governor regretted the news became public before he met privately with "interested parties." But that did not appease everyone.

"The bottom line on all of this was the governor made this decision without consulting the pro-life community," said an outraged Gayle Ruzicka, president of the conservative Utah Eagle Forum.

She questioned Leavitt's authority to end the appeals, since the legal action began under his Republican predecessor, then-Gov. Norm Bangerter.

Others were delighted.

"I want to compliment him for being in touch with Utahns rather than making it a political issue," said Beverly Cooper, executive director of the pro-abortion rights group, Utahns for Choice.

Cooper said she hoped Leavitt would reverse state policies withholding Medicaid funding for abortions in cases of rape and incest.

Critics complain that Leavitt has forfeited the state's leverage against separate appeals filed by the American Civil Liberties Union in disputes over fetal experimentation and legal fees.

Leavitt and Graham, meanwhile, are promising "a vigorous defense" against ACLU appeals when the case goes before the Denver court.

Richard Wilkins, a Brigham Young University law professor who co-authored the 1991 law, disagreed with claims the state could not win its appeal on spousal notification. Prevailing on the issue "was a remote possibility," he said. "But it was a possibility."

House Majority Leader Marty Stephens, R-Farr West, wondered outloud whether the attorney general was behind it all. He noted that Graham fired anti-abortion attorney Mary Ann Wood from the case days before the appeals were withdrawn.

Calls for comment to Graham and her spokesman Palmer DePaulis went unreturned Monday. But in a statement Friday, Graham insisted that Leavitt made the final decision "because of the important and sensitive nature of the case."