

## Snow fun



JOHN VAN NOSTRAND/Colby Free Press

Alyssa and Andrew Shubert play in the snow Tuesday in the front yard of their home in the 900 block of East Ninth Street. The combination of the southern sun in the winter and a north-facing house has preserved the snow despite the recent above-freezing temperatures.

## Lawsuit to block state-funded abortions dismissed

TOPEKA (AP) — A lawsuit that sought to end state-funded abortions for Medicaid recipients was dismissed Tuesday by a judge.

Shawnee County District Judge David Bruns said Attorney General Phill Kline had no valid legal claim to sue Gov. Kathleen Sebelius and administration officials over the issue. Kline had argued that Medicaid-funded abortions violated the state constitution.

Bruns noted that federal law requires states participating in the Medicaid program to allow abortion in cases of rape and incest or when the mother's life is in danger, but prohibits it in other instances. The judge said because the state participates in Medicaid, it must follow federal law, which trumps the state constitution.

"To the extent that the federal government has 'occupied the field,' all of the branches of state government are required to yield to the laws and regulations of the United States of America," Bruns wrote in his 24-page opinion. "This is true even in cases in which the majority of citizens in a state may disagree with the action taken by the federal government."

The lawsuit was prompted by the House, which in 2002 ordered the attorney general's office to file it. State law requires that office to seek settlement of a legal controversy when ordered by at least one legislative chamber.

Rep. Lance Kinzer, R-Olathe, filed the suit on Kline's behalf last year, but he directed questions about Bruns' ruling to Kline's office. Others among the 41 House sponsors of the 2002 resolution declined comment, saying they hadn't seen the ruling.

Spokesman Jan Lunsford said Kline's office hadn't had time to review the decision and would be discussing whether to appeal.

Some abortion rights advocates considered the lawsuit an attack on the U.S. Supreme Court's Roe v. Wade decision — issued 33 years ago Sunday — legalizing most abortions. But Kinzer and backers of the lawsuit said it was an attempt to settle questions arising under the Kansas Constitution, not a challenge to Roe.

In 2002, even some abortion opponents had misgivings about a lawsuit, questioning whether pursuing it would be as productive as attempting to pass legislation restricting abortions.

They also worried the strategy could backfire, resulting in a strong

court opinion upholding abortion rights.

Sen. Phil Journey, R-Haysville, an abortion opponent, called the House's demand for a lawsuit "unfortunate."

"I'm sure the attorney general did the best he could, but it was doomed," said Journey, an attorney. "The law's well settled."

Bruns' order agreed with arguments offered by Sebelius' office.

The state's Medicaid budget is around \$2.2 billion. Some 60 percent is federal money, and Sebelius' office argued it could be in jeopardy if the lawsuit prevailed. When the lawsuit was filed, Medicaid officials said that over the previous 10 months, the state paid \$1,908 for seven abortions for Medicaid recipients.

"It appears to be a ruling that recognizes that not every problem can be solved with a lawsuit and some issues can only be solved by legislative bodies," said Matt All, the governor's chief counsel.

"We've said all along that federal law imposes these requirements on us."

The lawsuit had argued that the state's participation in abortions violated the Kansas Constitution's guarantee that everyone has equal rights, including "life, liberty and the pursuit of happiness."

Bruns said that provision wasn't designed to help the courts settle specific questions but provide guidance for legislators "when attempting to balance the rights of individuals and the interests of the community."

The judge also declared the lawsuit "premature and not ripe for decision," despite speculation about whether Congress will change the federal Medicaid law or whether a change in the U.S. Supreme Court's composition will lead it to overturn Roe.

"At this point, however, one can only speculate about what the future may or may not bring," Bruns wrote.

## Meeting to benefit small business and health insurance programs

TOPEKA — Small business owners across the state have received packets from Insurance Commissioner Sandy Praeger, containing information on several important insurance issues of importance to them. Packets were mailed Jan. 18.

"The dynamics of owning and running a small business today, present challenges with regard to insurance," said Praeger. "It is my hope that the information contained in the small business packets will be helpful to small businesses across

Kansas as they are making important insurance decisions."

Packets include educational materials on health insurance, worker's compensation and property and liability coverage. The packet has been designed specifically for the small business professional.

The packets also contain information on small business tax credits and Health Savings Accounts and the banks and companies in Kansas offering them. Utilizing HSA's, in conjunction with the

small business tax credit, can lower a business's state tax burden. Also enclosed is a listing of small group companies offering insurance products in Kansas. Small businesses in Kansas should check the Insurance Department website [www.ksinsurance.org](http://www.ksinsurance.org) regularly for ongoing updates to this information.

Any small business that did not receive a packet, should contact Cindy Hermes at the Insurance Department by calling 1-800-432-2484.

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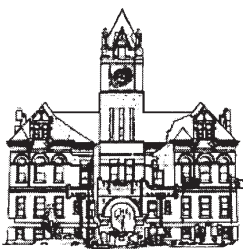
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