

Supreme Court Upholds Indiana Provision Mandating Fetal Burial Or Cremation

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The Supreme Court is leaving in place part of an Indiana law that mandates that aborted fetuses be buried or cremated.

The court did not take up a second part of the law that banned abortions because of fetal abnormality, the fetus's race, sex or ancestry. A lower court struck down that part of the law in addition to the burial provision. The Supreme Court, though, said it will wait for other lower court rulings before weighing in on the fetal characteristics provision.



Abortionist Kermit Gosnell collected severed feet from aborted babies and displayed them in jars.

Vice President Pence [signed the legislation](#) when he was governor.

Justice Clarence Thomas [wrote a 20-page, anti-abortion-rights concurrence](#), warning that by leaving in place a lower court decision that invalidated Indiana's law banning "discriminatory" abortions, the court was aiding and abetting the possibility of a modern eugenics movement.

"This case highlights the fact that abortion is an act rife with the potential for eugenic manipulation," he wrote. "From the beginning, birth control and abortion were promoted as means of effectuating eugenics."

He pointed to sky-high rates of abortion for fetuses in Iceland and Europe diagnosed in the womb with Down syndrome.

"Although the Court declines to wade into these issues today," Thomas concluded, "we cannot avoid them forever."

Tuesday's unsigned opinion in the Indiana case appeared to be a compromise that allows the court to tread water on abortion for now. It preserves the status quo and, indeed, even allows for a possible challenge to the burial and cremation provision of the law on different grounds in the future. Justices Ruth Bader Ginsburg and Sonia Sotomayor would have struck down both provisions of the law.

Essentially, the high court is punting here on the issue of abortion to keep it out of the court — for now. But it's sure to come back.