

N.J. law pulls 10,000 babies off safety net

by Marianna Wertz

The model welfare reform law which went into effect in New Jersey 18 months ago has cut approximately 10,000 newborn babies from the social safety net of Aid to Families with Dependent Children (AFDC), according to David Sciarra, attorney for New Jersey Legal Services, who spoke with *EIR* July 17. Under the new law, the first of its kind in the nation and the model for pending federal welfare reform legislation, women in New Jersey no longer receive the roughly \$800 annual additional income for children conceived while they are on welfare.

"My problem with the exclusion is even if you concede that you might prevent some births from occurring, either through abortion or through women deciding not to get pregnant, the problem is you're throwing thousands of kids off the safety net when you do that. And nobody seems to care what happens to those kids. That's the tragedy," Sciarra said.

In addition, Sciarra said, a rise of 3-4% in the rate of voluntary abortions by indigent mothers under state Medicaid funding has occurred since the law went into effect, and the birthrate in New Jersey has declined by 11% overall in that time period.

The New Jersey Legal Defense Fund, together with the National Organization for Women (NOW) Legal Defense Fund, sued the State of New Jersey and the federal government, which had to give clearance to the "experiment," when the law went into effect. While they lost the initial suit, *C.K. et al. vs. Shalala et al.*, when Newark Judge Politan ruled in favor of the law May 4, they filed a notice to appeal in the Third Circuit Court of Appeals before the July 1 filing deadline.

Virginia 'on the offensive'

That filing prompted the Commonwealth of Virginia to make a public stance in defense of the brutal New Jersey law. Virginia's Republican Governor George Allen, who shares the "Conservative Revolution" outlook of New Jersey's Republican Governor Christine Todd Whitman, pushed a bill similar to New Jersey's through the Virginia State Assembly earlier this year, which went into effect July 1. On July 11, in response to the filing of notice to appeal the case in New Jersey, Virginia Attorney General Jim Gilmore announced that he will "go on the offensive" to protect Virginia's new welfare law against a similar legal challenge.

Gilmore said he will file an *amicus curiae* "friend of the

court" brief in support of the federal government and the State of New Jersey, in the Third Circuit Court of Appeals. "A favorable decision for New Jersey in the Third Circuit will make it much tougher for reform opponents to prevail when they bring suit against Virginia," Gilmore said.

Issue unites opposition

The clear danger to the welfare of thousands of children under these new laws has served to unite otherwise disparate groups in opposition. The staunchly anti-abortion Roman Catholic Church has joined with such feminist "pro-choice" organizations as NOW, to oppose these anti-child laws.

In 1992, when the New Jersey law was first proposed, Regina Purcell, Associate Director of Social Concerns for the New Jersey Catholic Conference, released a statement in which she denounced the proposed law, because, she said, it "places the family at risk, is punitive and destructive." The Conference argued that, since middle-class or wealthy families receive a tax deduction of \$2,150 for each dependent child, families on welfare are entitled to an *increase* in child support, rather than an elimination of that support. Purcell also argued that taking the additional \$800 per year away, "however meager an amount it is, does mean the difference between being able to take care of a new baby or not."

In Virginia, the state's American Civil Liberties Union director Kent Willis told this news service July 10 that the ACLU is right now deciding on a course of action to oppose the "family cap" policy under the new law—which, like New Jersey's, stipulates that a child born to a woman while she is on welfare will not receive the additional approximately \$700 per year that the AFDC program formerly provided.

While the ACLU has been a leading advocate of a woman's "right to choose"—i.e., abortion on demand—it finds itself defending the right of a woman to bear a child.

The constitutional question

"We do have a reproductive freedom question here," Willis told *EIR* News Service. "The caps essentially amount to government policy that attempts to set conditions for women in terms of choosing whether or not they will have an abortion. The ACLU does not maintain that welfare itself is a requirement of the Constitution. However, once the government creates a system, such as the welfare system, it must implement it in a fair manner that does not violate constitutional principles. You have to essentially isolate the universe of welfare, and say, now that you're in this universe, obviously the government can require conditions to participate in a program, but it can't remove constitutional rights. A program that attempts to dictate when women will reproduce and not reproduce is a violation of constitutional rights."

The U.S. Congress is currently debating a new welfare law for the nation, which may include the same "family cap" provision. Should this pass, the tragedy of New Jersey will become the tragedy of the entire United States.