

House Substitute for Senate Bill 218 Veto Message from the Governor

For more than a decade, Kansas laws have banned partial birth abortions and post-viability abortions except in those very limited cases where it is necessary to preserve the life or health of a pregnant woman. The United States Supreme Court has consistently held that while states can limit the availability of post-viability abortions, they must allow them where necessary to protect the health or life of the woman.

As Governor of Kansas, I have worked hard to reduce abortions by supporting a range of initiatives including adoption incentives, encouraging parental involvement and individual responsibility for young men and women, expanding health services for Kansas children, promoting access to affordable contraceptives, expanded maternal and infant health services and promotional efforts, providing funds for proven successful pregnancy maintenance programs and encouraging age-appropriate sex education.

These efforts have resulted in reducing the number of abortions by more than 10% in the last six years in Kansas. I am confident that with a more united effort to reduce the number of unplanned pregnancies, combined with creating conditions that provide support and assistance for mothers and their babies, we will have even greater success reducing abortions in our state.

Unfortunately, House Sub for SB 218 will not help to reduce the number of abortions in Kansas, and would likely be declared unconstitutional. Under the bill, a physician intending to comply with the law could later be criminally prosecuted. A physician acting in good faith to save a pregnant woman's life, and using his or her best medical judgment, should not be subject to later criminal prosecution. Similar language was declared unconstitutional by the United States Court of Appeals for the Sixth Circuit in *Womens Medical Professional Corp. v. Voinovich*, 130 F.3d 187 (6th Cir. 1997).

The provisions in this bill that would allow for the criminal prosecution of a physician intending to comply with the law will lead to the intimidation of health care providers and reduce access to comprehensive health care for women, even when it is necessary to preserve their lives and health. While I agree that we should try to reduce the number of abortions, it cannot be at the increased risk to the life or health of women. Therefore, pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto House Substitute for SB 218.

Vetoed

April 23, 2009

Signed

Kathleen Sebelius