Approved 4-25-89 Ginger Barr, Chm.
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Representative Ginger Barr at
Chairperson

1:45 ~~a.m.~~/p.m. on March 28, 1989 in room 526-S of the Capitol.

All members were present except:

Representative Martha Jenkins - Excused
Representative J. C. Long - Excused
Representative Kathleen Sebelius - Excused
Representative Dale Sprague - Excused

Committee staff present:

Mary Torrence, Revisor of Statutes Office
Mary Galligan, Kansas Department of Legislative Research
Juel Bennewitz, Secretary to the Committee

Conferees appearing before the committee:

Belva Ott, Planned Parenthood of Kansas, Inc.
Peggy Jarman, Women's Health Care Services
Beth Alexander, M.D., University of Kansas School of Medicine - Wichita
Herbert C. Hodes, M.D.
Gordon Atcheson, Attorney
William J. Cameron, M.D., University of Kansas Medical Center
Margo Smith, Counselor
Angie Roe
Pat Goodson, Right to Life of Kansas
Ed Kern
Ann Hebberger, League of Women Voters
Gordon Risk, M.D., A.C.L.U.
Reverend Ann Richards, Religious Coalition for Abortion Rights in Kansas
Paul Shelby, Assistant Judicial Administrator, Kansas District Judges Association
Jack Straton, Ph.D., National Organization for Changing Men
Helen DeWitt, Right to Life of Kansas, Inc.
Catherine Wahlmeier
Nina Strahm
Cleta Renyer
Rex Fuller, Knollwood Baptist School/Kansas Legislative Watch

SB 91

Chairman Barr reviewed the procedure, outlined at yesterday's meeting, for the conducting of the hearing.

Belva Ott noted several of the attachments with her testimony, namely: an article by C. Everett Koop, Surgeon General, U.S.P.H.S., an article about a pregnant teen, and a chart depicting the impact of mandatory parental or judicial involvement. She emphasized her major point as being that more prevention in the form of sexuality education is necessary, otherwise the problem is being "band-aided". She cited the statistics from "One Day in the Lives of American Children", Attachment No. 1.

Peggy Jarman explained her written testimony had been distributed to the committee, Attachment No. 2, and yielded her time to Dr. Alexander.

Dr. Alexander noted that four out of 10 female teens are pregnant before graduation from high school. She discussed examples of four teens seen in her practice and the results of each case, Attachment No. 3.

Committee Questions and Discussion

After polling the committee, the chairman allotted five minutes for questions of Dr. Alexander (who had to leave to attend a patient in Wichita).

1. The doctor was asked if she were aware of any studies regarding post-traumatic stress syndrome as compared to those mothers who gave their babies for adoption.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS,

room 526-S, Statehouse, at 1:45 xxxx/p.m. on March 28, 1989.

She answered there was fairly extensive research done of those studies on post-abortion, and of those, none confirmed such a syndrome. She stated there are "great studies" which examine what happens with youth faced with pregnancy before graduation from high school regarding their economic, educational and emotional development. Conversely, there are not good studies on the emotional adjustment of young people who give up their babies for adoption.

When asked for reference sources, Dr. Alexander mentioned the AMA paper on adolescent health which she stated gives "impressive statistics" regarding adolescents who continue with their pregnancy up to age 18. The doctor also mentioned the University of Michigan's Center for Youth Statistics studies of poverty, educational dropouts and emotional consequences on children who have children.

2. Regarding the judicial by-pass - how would you know if permission had been given?

   The response was that a physician wouldn't. The doctor suggested that in any medical procedure a patient can lie and be "quite creative about it". The situation can worsen when options are restricted. This could force doctors into a position of having to police the legitimacy of requests, a situation which would create an added burden to doctors. Most adolescents delay contacting a doctor regarding care and the doctor suggested that if the adolescent were in fear because of a family situation, she might not see the judicial by-pass as protection.

Dr. Hodes briefly described the consequences of illegal abortions, questioned the enforcement procedure of a parental consent law and suggested that such a law would perpetuate the cycle of poverty, Attachment No. 4. In addition to the doctor's testimony there were copies of two news articles relevant to the topic, Attachments No. 4A and No. 4B.

Gordon Atcheson testified the bill is unconstitutional in that it denies equal protection and due process rights. He noted the physician has no means by which to determine if the abortion would be legal and stated there are no meaningful standards for the district court in which the hearing would be held, Attachment No. 5.

Dr. Cameron outlined medical circumstances pre-legal abortions and currently. He supplied medical reasons for keeping abortion legal and posed some questions for enforcing a law such as outlined in SB 91. He stated this bill would turn back the clock for children having children, Attachment No. 6.

Margo Smith submitted her written testimony, Attachment No. 7, and yielded her time to Dr. Cameron.

Angie Roe described the plight of a frightened teen seeking an abortion, keeping the secret from her family and how she was finally able to attain one, Attachment No. 8.

Pat Goodson testified the bill is a set-back for the pro-life movement; is flawed in principle since the minor would need parental consent if she so chose; and makes no mention of communication between parent and child. She claimed the purpose of the judicial by-pass is circumvention of the parents, Attachment No. 9. Attachment No. 9A is a law article discussing the "Permissible Requirements of Parental Consent for Abortion".

Edward Kern submitted his written testimony, Attachment No. 10, and yielded his time to Ms. Goodson.

Ann Hebberger noted the protection of minors established in the Kansas Code for Care of Children; asked if parents' rights should override the child's right to equal protection under the law and addressed who should care for children born unwanted, Attachment No. 11.

Dr. Risk stated the ACLU's support of a minor's right to make her own decision regarding pregnancy. He discussed the purpose of the judicial by-pass and noted Kansas statutes which recognize minors as responsible with particular focus on K.S.A. 59-2102, a law which recognizes the right of a minor to give up a child for adoption. The doctor asked how a minor could be too immature to choose to limit or continue a pregnancy but mature enough to be a parent, Attachment No. 12.

Reverend Richards opposed the bill calling it - punitive rather than helpful; an increased risk to female teen's health; an added emotional burden and; discriminatory against the poor and uneducated, Attachment No. 13.

Paul Shelby discussed technical and procedural concerns with the bill if it were to become law, Attachment No. 14. Attached to his testimony is a letter from C. Fred Lorentz, Kansas District Judges Association, discussing that group's opposition to the procedure of the judicial by-pass, Attachment No. 14A.

Dr. Straton opposed the bill saying it fosters domination and control over women, Attachment No. 15.

Helen DeWitt quoted from a statement by the Roman Catholic Bishops in America made following the 1973 U.S. Supreme Court decision on abortion. She denied the bill as a parental rights bill claiming no language in the bill mentioned the rights of parents, Attachment No. 16.

Catherine Wahlmeier submitted her written testimony, Attachment No. 17, and yielded her time to Ms. DeWitt.

Nina Strahm targeted sections of the bill and gave arguments against them. She suggested that minor children are too immature to make decisions regarding abortions and emphasized the necessity of family support, Attachment No. 18.

Cleta Renyer submitted her testimony, Attachment No. 19, and yielded her time to Ms. Strahm.

Dr. Fuller opposed the bill in its current form both as a citizen and an educator, Attachment No. 20.

Attachment No. 21 contains letters from officers and members of the Religious Coalition for Abortion Rights in Kansas.

Attachment No. 21A is We Affirm, a publication containing summary position statements from many major denominations regarding abortion.

Attachment No. 22 is the written testimony of Beverly Tucker in opposition to the bill.

Committee Questions and Discussion

1. To Ms. Strahm - please cite the location or reference in legal stanza setting out certain parental rights.

   Ms. Strahm's response seemed to outline responsibilities and no legal reference was cited. One member of the committee noted a minor cannot enlist or get married without parental consent.

2. To Dr. Fuller - in your testimony you indicated you were originally in support of the bill, what caused you to change your mind?

   The response was the senate amendments which would require him, as a private school counselor, to advise a pregnant teen on how to obtain an abortion. Dr. Fuller stated his objections to be the same as those voiced by KASB at yesterday's hearing.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS,

room 526-S, Statehouse, at 1:45 xxx/p.m. on March 28, 1989.

3. To Drs. Cameron and Hodes - we have heard much about the immaturity of teens prior to the age of 18 years in regard to making a decision about abortion. One of the alternatives is to keep the child. Are they immature to become a mother?

   Dr. Cameron's response was that pregnancy, wanted, unwanted or forced upon a teen, nor parental consent; nor judicial authority would make the children any more mature.

   Dr. Hodes explained, in his experience, the only teens he had seen to suffer ill effects were those who gave up babies for adoption. They suffer anniversary depression of the baby's birthday, sometimes even years later.

4. To Dr. Hodes - are you saying it is better for the child to keep her baby than to give it up for adoption?

   The doctor called it a "no win situation" as those who keep their babies are often in a situation where the cycle of poverty and abuse are perpetuated, particularly if they are from non-nuclear families or "on their own".

5. To Gordon Atcheson - regarding constitutionality. Is my understanding correct that to have a parental consent law, there must be judicial by-pass to make it constitutional?

   He stated that to be his understanding after reading supreme court cases. A recent case was Planned Parenthood of Missouri vs. Ashcroft and the statute providing judicial by-pass there was upheld. he noted some of the language in SB 91 appeared to be borrowed fromt he Missouri statute but makes "substantial" changes rasising some of the constitutionality concerns Mr. Atcheson referenced in his testimony. He noted the appellate process, the secrecy barring a physician from verifying a court decision and even changing words such as "shall consider" to "may consider". He stated there is no guidance for the bench to apply the law and it is significant as it denies the petitioner any meaningful review.

6. To Dr. Hodes - last year the committee had evening hearings during which time six teen mothers, who had kept their babies, testified. They all seemed to come from stable families.

   The doctor stated he could supply numbers to the contrary. This bill would affect families who are not and he asserted this should not be a "numbers battle".

The meeting was adjourned at 3:13 p.m.

The next meeting of the committee is scheduled for March 29, 1989, at 12:30 p.m. in Room 526-S.

GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE March 28, 1989

(PLEASE PRINT) NAME	ADDRESS	WHO YOU REPRESENT
Betty Jones	Shawnee	Eagle Forum
B.J. Tucker	K.C.K	
Helena Streit	Downs Ks	Rt to Life of Kansas
Kathryn Eilert	Beloit, Ks	Rt To Life, Kans.
Connie Bridley	2112 SW Huntoon	Capital City N.O.W.
Sheila Kadell	5621 W 10, Topeka/KS	Right to Life Kansas
Shannon Barnes	7301 N. Hillside #20 Valley Center Ks	Kansas ~ Life
JoAnn D'Aloia	311 W. Alma	Pro-life
Serra Melechinsky	203 E. Bertrand, St. Mary's	Pro-life against S.B. 91
Dawn Melechinsky	203 E Bertrand St Marys	Pro life against SB 91
Joseph A Engell	305 [illegible] St Mary's	Pro life against SB 91
Deane L. Engell	Rt. #1, St. Marys, KS	Pro life against SB91
Mary Ellen Trausch	Rt 1 Spring Hill, 66083	Pro-life Against SB91
John Shott	937 So. 76 KCKS 66111	Pro-life Against SB91
Mary Stenlage	Rt. 3 Box 12 K Kelly, Ks	Pro-life Against SB 91
Darlene Wuester	414 S. Fifth Seneca, Ks	Pro-life Against SB 91
Patricia Strathman	1015 N 6, Seneca, KS	Pro Life Against SB 91
Margie Shinn	201 N. 5th - Seneca, Ks.	Pro-Life Against SB91 (Citizens for Life)
Virginia H. Boylson	310 E. Lasley St. St Marys, Ks.	Pro-Life against SB91
Myron L. Boylson M.D.	310 E. Lasley St St Marys KS	Pro Life against SB 91
Agnes Kurtenbach	Rt. 1 Herington, Ks 67449	Pro Life against SB91
Maureen Peltier	320 N. D Herington, Ks 67449	Pro-Life Against SB91
Mary Sanders	RR 1 Box 11 Morrill Ks 66515	Pro Life against SB91
Judy Oetting	Baileyville	Pro Life Against SB91
Mary Kohake	Centralia	Pro Life Against SB91
Jean A. Renner	RR 2 Box 96 Seneca Ks	Pro-Life (against SB91)
Audrey Feldkamp	Box 1 (66404)	Against SB91

GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE 3-28-89

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
Nina J. Strahm	RR 3 Box 156, Sabetha, Ks.	Pro-Life
Belinda J. Cunningham	Lawrence	Pro-choice
JANET CINELLI	1234 CONN LAW, KS 66044	Press
Kirsten Lawing	Lawrence	Women's Rights for Choice
Rex Fuller	10248 S.W. 49th St, Topeka Ks	Kansas Legislative Watch
Marlene G. Wright	7002 Kessler, Merriam	Pro-Choice
JE Lewis	1001 E. 47 ST, KC Mo	Planned Parenthood
SAMMY TOLBERT	5306 S.W. 31ST	PARENT
Robynn Tolbert	5306 S.W. 31st	Interested teenager
Martha Sly	202 So 13th Herington Ks	Right to Life of Kansas
Isabelle Mudd	P.O. Box 62, Gorham, Ks	" "
Bob Runnels	K.C., Ks.	Ks. Cath. Conf.
Bob Glassman	1706 Main St.	~~Hays~~ Pro-Life
Allie Stephens	RH Box 51 Grinnell Ks	Prolife Parent
Angie Brown	PO Box 223 Grinnell, Ks	" "
Jackie Oeveck	Hanover Ks. 66945	Parental Rights
Joanna Martin	311 N. Hollenberg Hanover Ks. 66945	KFL of Hanover
Jamie Rieth	128 N. Wulff Hanover Ks. 66945	Hanover ~~Right to Life~~ Kansans for Life
Nicole Schlabach	107 E. Jaedicke Hanover Ks. 66945	Hanover ~~Right to Life~~ Kansans for Life
Mary Ellen Diederich	RR Greenleaf Ks 66943	KFL + SDCCW
Lesley T. Ketzel	315 Park Hill Terrace Lawrence KS 66041	Religious Coalition FOR ABORTION Rights in KANSAS
Tom Seaty	Box 98 Lucas Ks.	Lucas/Luray High
Denny Lantz	Box 22 Lucas KS	Lucas/Luray high School
Warren Gallis	HC1 Box 37 Luray Ks	Lucas/Luray High
Vince Lehmann	Box 134 Luray KS	Lucas/Luray High
Bill Herold	Box 31 Lucas KS	Lucas-Luray-High

GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE March 28, 1989

(PLEASE PRINT) NAME	ADDRESS	WHO YOU REPRESENT
Amy Heinze	Luray KS.	
Teri Wilson	Lucas KS.	
Troy Bates	Lucas KS.	
David Kluzman	Luray KS.	
Robin Deiter	1121 Virginia - Sabetha, Ks.	Prolife
Steve Deiter	" " "	"
Amy Cameron	3839 W. 171st Stilwell KS	Pro-Choice
Virginia Cain	215 E. Bertrand St. Marys, KS	Pro-Life against S.B. 91
Anna M. Foster	1105 North 2nd	Pro Life against S.B. 91
Opal E. Foster	1105 N 2nd St	Pro Life against S-B-91
Beverly A. Boucher	6531 S.W. 26 Ct. Topeka KS.	Pro-Life, against
Susan Siefkes	Topeka	Intern/Rep Kline
Pamela Nuss	KU-Lawrence	Intern/Crumbaker
Virginia A. Werth	5837 S.W. 27th St.-Topeka, Ks	Topeka Pro-Life Coalition for S.B 91 without amend.
Vernon C. Cox	8130 Armstrong K.C. Ks.	Pro Life Against SB 91
Sandy Bosse	Wheaton	Pro Life against SB91
Mary Ann Lichtenberg	8936 Bradford Ct. Wichita, KS 67206	Pro-Life against SB 91
Pat Turner	900 Country Acres Wichita, KS 67212	Pro-Life against SB91
Jane L. Bailey	2532 Penn Topeka Ks	Pro-Life against SB91
Fr. Delbert De Sanctis	Box 395 Hanover, KS.	Kansans for Life
David K Cinnamon	Pro-Life against SB-91	
Matthew W. Beam	Kill SB-91	
Jason Protrowsky	Kill the Bill	
Andrew Chin	Kill the Bill	
Simon Townshend		Pro Life,
Rev. Alvin Dillard	1021 W Walnut Herington Ks. 67449	OPPOSE S.B91 Church of God

GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE March 28, 1989

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
Jerome Greene	Nuke The Bill	[illegible]
Pete Brophy	Nuke Bill 91	Kill Abortion
Alex Chin	Kill the Bill	
Cameron Taylor	Kill the Bill	
Edward Kern	RR1 Box 29 Chase	Private Citizen
Celeste Kern	" " "	" "
Thomas Dora	Pro-Life Against	
[illegible] S. Foy		Planned Parenthood of GKC
Suzanne Weber	Mission Hills KS	Planned Parenthood GKC
[illegible]	[illegible]	P-L
Angela Anthony	KC MO	PPGKC
[illegible]	O.P. Ks	LWVK

March 28, 1989

TESTIMONY

SENATE BILL 91

Madame Chairman, Commitee members, I'm Beverly Tucker from Kansas City, a taxpayer and citizen of Kansas for 41 years. I wish to thank you for allowing me this opportunity to voice my opposition to Senate bill 91.

The stated intent of this bill was to protect the rights of parents to rear children who are members of their household. The intended purpose was to protect the family structure from outside interference and to prevent pregnant minors from making immature decisions; that is, in reference to abortion. As written and amended it does none of the above.

Do we not already have the right and responsibility under the law to speak for our minor children for all medical and surgical procedures? This being so, why should abortion be the exception? I say it should not.

Planned Parenthood
Of Kansas, Inc.

TO: HOUSE FEDERAL & STATE AFFAIRS COMMITTEE MEMBERS
FROM: Belva Ott, Director of Governmental Affairs and Community Relations - Planned Parenthood of Kansas, Inc.
RE: SB91

PARENTAL NOTICE LAWS - THEIR CATASTROPHIC IMPACT ON A MINORS' RIGHT TO ABORTION.

Under the guise of promoting family communication and of protecting pregnant minors, many states have passed some form of legislation mandating parental involvement in the minor's abortion decision. In other states where laws have been implemented, these laws seriously burden minors' ability to exercise their constitutional right of choice between abortion and childbirth. In practice, parental consent/ notification laws significantly increase health risks to minors causing necessary medical care to be delayed and by impairing the ability of health providers to give quality care. These laws punish young women for becoming pregnant, they do *not* promote family integrity, improve parent-child communication, help with the minor's decision-making process or involve the minor father in any manner.

A. How Parental Consent/Notification Laws Are Both Irrational and Damaging to Minors and Their Families.

1. THE REAL GOAL OF PARENTAL CONSENT/NOTIFICATION LAWS AREN'T MOTIVATED BY A DESIRE TO HELP MINORS BUT TO DISCOURAGE ABORTION OR PREVENT IT ALTOGETHER. THESE LAWS ARE TYPICALLY NOT INTRODUCED BY MEDICAL GROUPS, YOUTH ADVOCATES, DEFENSE FUNDS, YOUNG WOMEN'S ASSOCIATIONS, GROUPS FIGHTING THE ABUSE OF CHILDREN OR OTHER ORGANIZATIONS TRADITIONALLY CONCERNED WITH HELPING MINORS' AND THEIR FAMILIES. ALL SUCH LAWS PASSED IN THE LAST 13 YEARS HAVE BEEN DRAFTED BY ANTI-CHOICE GROUPS WHICH HAVE AS THEIR PRIMARY GOAL ENDING ALL ABORTIONS.

Some anti-abortion groups have been very explicit in that enhanced parental involvement isn't their primary goal in advocating for these laws.

Wichita — 2226 East Central, Wichita, Kansas 67214-4494 316 263-7575
Hays — 122 East 12th, Hays, Kansas 67601 913 628-2434
Cowley County — P.O. Box 176, Strother Field, Winfield, Kansas 67156
Winfield: 316 221-1326 Arkansas City: 316 442-0050

For example, <u>where parents encourage minors to have an abortion, one so-called right-to-life group recommends "waiting it out."</u> In other words, counseling young women *not* to tell their parents that they are pregnant until it is too late to get an abortion. CONSENT LAWS WOULD ALLOW PARENTS TO FORCE A MINOR CHILD TO GET AN ABORTION THE MINOR MAY NOT WANT!

The constitutionality of these laws is still uncertain. The U.S. Supreme Court has said that a state requirement of parental consent or notification before a minor can obtain an abortion <u>might</u> be constitutional *if* the state provides an administrative or judicial bypass mechanism so that both mature minors and minors whose best interest would be served by confidential abortions may terminate a pregnancy without parental notification.(1) ONLY 9 STATES HAVE PARENTAL CONSENT LAWS WORKING AT THIS TIME!

This means a minor can only get an abortion if she first successfully navigates a complicated legal obstacle course. (ATTACHED IS AN OUTLINE OF WHAT A MINOR FACES IN FINDING HER WAY THROUGH THE JUDICIAL BYPASS MAZE.)

The Supreme Court has never reviewed the constitutionality of these judicial bypass laws in actual operation and until recently there was no documentation of their impact on young women and their families. In February and March, 1986, a trial on the constitutionality of Minnesota's parental notification statutes was conducted. This challenge provided the first comprehensive factual record of the actual effects and operation of mandatory parental involvement legislation.

The trial involved years of research and study, culminating in testimony by single parents, minors, abortion clinic nurses and counselors, nationally renowned physicians, psychologists, psychiatrists, reproductive epidemiologists, and state court judges, guardians and public defenders involved in the implementation of the judicial bypass procedure. (2)

Although many well-meaning legislators believed the law would help minors, <u>THE EVIDENCE AT TRIAL OVERWHELMINGLY PROVED THAT MINNESOTA'S FIVE-YEAR EXPERIMENT WITH MINOR'S LIVES WAS A DISMAL AND AN UNMITIGATED FAILURE.</u>

MINNESOTA'S PARENTAL NOTIFICATION LAW:

1. **RAISED THE TEENAGE BIRTHRATE IN MINNEAPOLIS;**
2. **CREATED MORE TEENAGE MOTHERS WITH STUNTED AND DEPENDENT LIVES;**
3. **ADDED A NEW GENERATION OF UNWANTED CHILDREN WITH THEIR ATTENDANT PROBLEMS;**
4. **INCREASED THE NUMBER OF MORE DANGEROUS SECOND TRIMESTER ABORTIONS FOR MINORS; AND**
5. **REDUCED THE NUMBER OF INDIVIDUAL DOCTORS WILLING TO DO ABORTIONS ON MINORS.**

THE LAW COMPROMISED SOUND MEDICAL CARE BY CREATING A PROCESS THAT FORCED COUNSELORS TO FOCUS ON REDUCING THE TERROR AND ANXIETY OF GOING TO COURT RATHER THAN ON THE GENUINE MEDICAL AND EMOTIONAL NEEDS OF THEIR MINOR PATIENTS. THE TRIAL COURT'S FINDINGS ON THE EFFECTS OF THE LAW CONFIRM THESE FACTS AND ARE A STUNNING INDICTMENT OF A STATE-IMPOSED SYSTEM THAT HURTS MINORS TO THE BENEFIT OF NONE.(3) If this is what the Kansas Legislature wants to do to our state's minors, then a parental consent bill should be passed. However, the majority of American citizens support a right to choice, regardless of the woman's age.

Hodgson showed there are no benefits which can be balanced against the traumatic impact of these laws on minors. **FROM 1981 THROUGH 1985, THE MINNESOTA MANDATORY PARENTAL NOTIFICATION LAW WAS IMPOSED ON OVER 7,000 PREGNANT MINORS BETWEEN THE AGES OF 13 AND 17. OF THESE MINORS, APPROXIMATELY 3,500 WENT TO STATE COURT TO SEEK A CONFIDENTIAL ABORTION, ALL AT CONSIDERABLE PERSONAL COST.** Many others didn't go to court although their need and entitlement for confidential abortions was just as strong or stronger. **PARENTAL CONSENT LAWS CREATE A CLASS SYSTEM IN WHICH ONLY MINORS HAVING ACCESS TO COURTS CAN PARTICIPATE.** Only those minors, in Minnesota, who were old enough, wealthy enough or resourceful enough were actually able to use the court bypass option.(2)

In Minnesota, it was not unusual for as many as 23 strangers to learn of a minor's pregnancy as she wound her way through the court process.

NONE OF THE JUDGES, HEALTH PROFESSIONALS, PUBLIC DEFENDERS, COURT-APPOINTED GUARDIANS, MOTHERS OR MINORS WHO WERE INVOLVED IN IMPLEMENTING THE MINNESOTA LAW SAW *ANY* POSITIVE EFFECT WHATSOEVER, AND MOST QUESTIONED THE LOGIC, IF NOT THE SANITY OF THE DECISION OF THE LEGISLATURE TO BURDEN SO MANY FOR THE BENEFIT OF NONE.(2)

IN FACT, OF ALL THOSE MINORS GOING THROUGH THE JUDICIAL BY-PASS PROCEDURE, ONLY 4 WERE TURNED DOWN AND UNABLE TO OBTAIN AN ABORTION.

Minnesota's experience isn't unique. Similarly devastating effects have been documented in Massachusetts and other states with mandatory

THESE LAWS ARE DOOMED TO FAILURE: <u>LOVE AND COMMUNICATION BETWEEN FAMILY MEMBERS CANNOT BE CREATED BY CRIMINAL STATUTES FORCING CONFIDENTIAL MATTERS TO BE DIVULGED.</u>

PARENTAL CONSENT LAWS ARE UNCONSTITUTIONAL IN EFFECT BECAUSE THEY SACRIFICE THE PRIVACY RIGHTS OF MINORS AND ACHIEVE NO POSITIVE OR LAWFUL GOAL. THE RESULTING TRAGEDY IS THAT THE REAL NEEDS OF MINORS ARE NEVER ADDRESSED.

The vast majority of teen pregnancies are unplanned and unwanted, the results of unprotected sexual activity. Although the rate of sexual activity among teens is approximately the same in the U.S., England, Sweden, the Netherlands, France and Canada, THE U.S. HAS THE HIGHEST ABORTION AND BIRTH RATES FOR TEENS.(5)

Of the 6 developed countries mentioned above, <u>those with the LOWEST ADOLESCENT PREGNANCY AND BIRTH RATES HAVE COMPREHENSIVE, LOW COST (OFTEN FREE), CONFIDENTIAL BIRTH CONTROL AND ABORTION SERVICES EASILY ACCESSIBLE TO TEENS THROUGHOUT THE COUNTRY.</u> (6)

Unfortunately, in the U.S. these comprehensive, confidential services are less available and the trend is increasingly toward a reduction of governmental funding for birth control and abortion services. More ominously, legal restrictions on the minor's ability to obtain birth control and make intelligent life choices once pregnancy occurs, offer little help. THOSE OPPOSING ABORTION SHOULD BE LEADING THE SUPPORT FOR EDUCATION ON BIRTH CONTROL AND SEXUALITY/AIDS EDUCATION FOR MINORS, FUNDING FOR FAMILY PLANNING AND EASIER ACCESS TO BIRTH CONTROL, ETC.,...IT WOULD CUT DOWN ON ABORTIONS. WHY AREN'T THEY SUPPORTIVE OF PROGRAMS TO CUT THE RATE OF ABORTIONS?

PLANNED PARENTHOOD OF KANSAS WOULD LIKE TO SUGGEST THAT THEIS COMMITTEE <u>LOOK AND PREVENTION AND EDUCATION....NOT PUNISHMENT!!</u>

PUT YOUR EFFORTS INTO ASSURING SEXUALITY EDUCATION, AIDS, AND EASIER ACCESS AND EDUCATION FOR BIRTH CONTROL. MANDATE COMPREHENSIVE SEXUALITY EDUCATION FROM K-12 AND FULLY FUND IT.

1) Planned Parenthood of Central Missouri v. Danforth, 428 U.S.52 1976; Bellotti v. Baird, 428 U.S. 132 1976; Bellotti v. Baird, 443 U.S. 622 1979; City of Akron v. Akron Center for Reproductive Health, 462 U.S. 416, 1983; Planned Parenthood Association of Kansas City, Inc., v. Ashcroft, 462 U.S. 476, 1983.

2) Findings based on the expert testimony of witnesses at the trial *Hodgson v. Minnesota*, 648 F. Supp. 756 (D. Minn. 1986)

3. Hodgson at 7-30

4) Donovan, *Judging Teenagers: how Minors Fare When They Seek Court Authorized Abortions,* 15 Fam. Plan. Persp. 259, 1983; *Plannned Parenthood League of Mass. v. Flanagan,* No. 81-124, Mass. Commonwealth Sup. Jud. Ct. filed 4-17-81; Cartoof & Klerman, *Parental Consent for Abortion: Impact of the Massachusetts Law,* 76 Am. J. Pub. Health 397 (1986).

5) JONES, FORREST, GOLDMAN, HENSHAW, LINCOLN, ROSOFF, WESTOFF & WULF, *TEENAGE PREGNANCY IN DEVELOPED COUNTRIES: DETERMINANTS AND POLICY IMPLICATIONS,* 17 Fam. Plan. Persp. 53, 1985.

6) 1981, ALAN GUTTMACHER INSTITUTE, *Tables & References.*

Documents

A Measured Response: Koop on Abortion

In July 1987, President Reagan directed the Surgeon General of the United States, C. Everett Koop, to prepare a report on the health effects of abortion. On January 9, 1989, after reviewing the scientific literature and consulting with scientific and medical experts, as well as with representatives from a broad range of groups concerned with the abortion issue, the Surgeon General issued his findings in a letter to the president. Copies of the letter have been sent to the groups with whom Koop consulted. The letter is reproduced here in its entirety.

Dear Mr. President:

On July 30, 1987, in remarks at a briefing for Right to Life leaders, you directed the Surgeon General to prepare a comprehensive report on the health effects of abortion on women. It was clear from those remarks that such a report was to cover the mental, as well as the physical, effects of abortion. A review of the scientific literature, the expertise of the Public Health Service and the experience of national organizations with an interest in this issue form the basis for my conclusions.

The health effects of abortion on women are not easily separated from the hotly debated social issues that surround the practice of abortion. Therefore, every effort has been made to eliminate the bias which so easily intrudes even into the accumulation of scientific data. In this study I have purposely avoided any personal value judgment vis-à-vis abortion as a social issue.

I have approached this task as I did in writing the AIDS report which you requested in 1986. Scientific, medical, psychological and public health experts were consulted. I met privately with 27 different groups which had philosophical, social, medical or other professional interests in the abortion issue. The process involved groups such as the Right to Life National Committee, Planned Parenthood Federation of America, the U.S. Conference of Catholic Bishops, the American College of Obstetricians and Gynecologists and women who had had abortions.

In summary of the situation, each year approximately six million women become pregnant; of that number, 54 percent or 3.3 million of those pregnancies are unplanned. Over 1.5 million women, or 25 percent of those pregnant, elect abortion each year. Since the legalization of abortion in 1973, over 20 million abortions have been performed. Even among groups committed to confirming a woman's right to legal abortion there was consensus that any abortion represented a failure in some part of society's support system—individual, family, church, public health, economic or social.

At the time the report was requested, there were those advising you and intimately involved with the social issues of abortion who truly believed that such a report could be put together readily. In the minds of some of them, it was a foregone conclusion that the negative health effects of abortion on women were so overwhelming that the evidence would force the reversal of *Roe* v. *Wade*.

There were also others who truly believed differently. While they acknowledge that any surgical procedure done 1.5 million times a year may have some negative health effects on women, in their minds the positive effects of abortion—release from the unwanted pregnancy—far outweighed the perceived negative results.

It is difficult to label the opposing groups in the abortion controversy. Those against abortion call themselves prolife. On the other hand, those who are not prolife say they are not proabortion; rather, they refer to themselves as prochoice and supporters of a woman's right to choose abortion.

It is also true that some who are prochoice are personally opposed to abortion. It is not clear to them where the lines should be drawn between the right of the fetus and the right of the mother. So the prochoice forces are not monolithic.

Nor are the prolife forces monolithic. Many ardent prolife individuals who are dedicated to preserving the life of the fetus do not consider contraception to be ethically, morally or religiously wrong. But others in the prolife camp do; indeed, some equate contraception with abortion.

I believe that the issue of abortion is so emotionally charged that it is possible that many who might read this letter would not understand it because I have not arrived at conclusions they can accept. But I have concluded in my review of this issue that, at this time, the available scientific evidence about the psychological sequelae of abortion simply cannot support either the preconceived beliefs of those prolife or of those prochoice.

Today, considerable attention is being paid to possible mental health effects of abortion. For example, there are almost 250 studies reported in the scientific literature which deal with the psychological aspects of abortion. All of these studies were reviewed and the more significant studies were evaluated by staff in several of the agencies of the Public Health Service against appropriate criteria and were found to be flawed methodologically. In their view and mine, the data do not support the premise that abortion does or does not cause or contribute to psychological problems. Anecdotal reports abound on both sides. However, individual cases cannot be used to reach scientifically sound conclusions. It is to be noted that when pregnancy, whether wanted or unwanted, comes to full term and delivery, there is a well-documented low incidence of adverse mental health effects.

For the physical situation, data have been gathered on some women after abortions. It has been documented that after abortion there can be infertility, a dam-

FAMILY PLANNING PERSPECTIVES

aged cervix, miscarriage, premature birth, low-birth-weight babies, etc. But, I further conclude that these events are difficult to quantify and difficult to prove as abortion sequelae for two reasons. First, these events are difficult to quantify because approximately half of abortions are done in freestanding abortion clinics where records which might have been helpful in this regard have not been kept. Second, when compared with the number of abortions performed annually, 50 percent of women who have had an abortion apparently deny having had one when questioned. Further, these events are difficult to *prove* as sequelae of abortion because all of these same problems can and do follow pregnancy carried to term or not carried to term—indeed can occur in women who have never been pregnant previously. Clearly, however, the incidence of physical injury is greater in instances where abortions are performed or attempted by those not qualified to do them or under less than sterile conditions.

I have consulted with the National Center for Health Statistics and Centers for Disease Control about the design of appropriate studies which could answer the questions dealing with the physical and psychological effects of abortion.

There has never been a prospective study on a cohort of women of childbearing age in reference to the variable outcomes of mating. Such a study should include the psychological effects of failure to conceive, as well as the physical and mental sequelae of pregnancy—planned and unplanned, wanted and unwanted—whether carried to delivery, miscarried or terminated by abortion. To do such a study that would be above criticism would consume a great deal of time. The most desirable prospective study could be conducted for approximately $100 million over the next five years. A less expensive yet satisfactory study could be conducted for approximately $10 million over the same period of time. This $10 million study could start yielding data after the first year.

There is a major design problem which must be solved before undertaking any study. It is imperative that any survey instrument be designed to eliminate the discrepancy between the number of abortions on record and the number of women who admit having an abortion on survey. It is critical that this problem of "denial" be dealt with before proceeding with further investigations.

This is where things stand at this moment. I regret, Mr. President, that in spite of a diligent review on the part of many in the Public Health Service and in the private sector, the scientific studies do not provide conclusive data about the health effects of abortion on women. I recommend that consideration be given to going forward with an appropriate prospective study.

Sincerely,

C. Everett Koop, M.D., Sc.D.
Surgeon General, U.S.P.H.S.

ONE DAY IN THE LIVES OF AMERICAN CHILDREN

16,200 women get pregnant
2,753 of them are teenagers

1,099 teenagers have abortions
367 teenagers miscarry
1,287 teenagers give birth

666 babies are born to women who have had inadequate prenatal care

695 babies are born at low birthweight (less than 5 lbs., 9 oz.)
44 babies are born at very low birthweight (less than 3 lbs., 5 oz.)

72 babies die before one month of life
110 babies die before their first birthday

27 children die because of poverty

9 children die from guns
5 teens commit suicide

7,742 teens become sexually active
609 teenagers get syphillis or gonorrhea

1,868 teenagers drop out of high school

988 children are abused
3,288 children run away from home
1,736 children are in adult jails

2,269 children are born out of wedlock
2,989 children see their parents divorced

36,057 people lose jobs

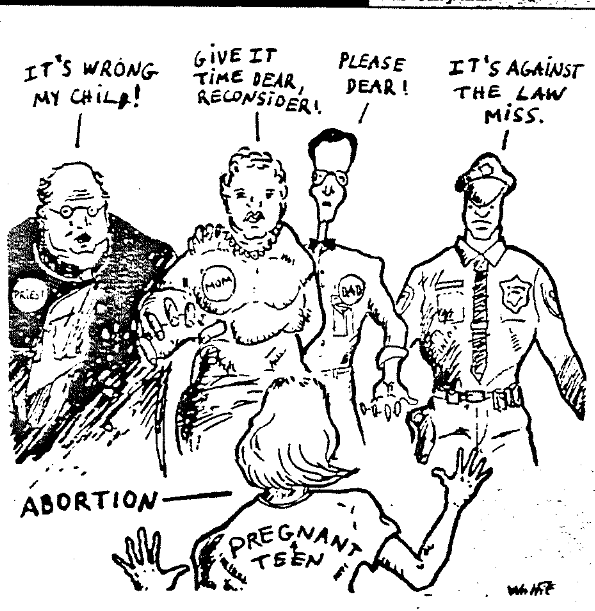
CDF Reports - May 1988

Abortion raises questions

Kansas Legislature approached with new bill

by Jessica Young

"Betty, I just don't know what to do! I can't tell my mom about this and I don't even know if I should tell Jim I'm pregnant. I don't want to risk losing him," Janie, a pregnant teenager, told her best friend.



"Well, are you going to keep it, or are you going to have an abortion?" Betty replied.

"I don't know. If I decide to have an abortion I either have to have my parents' permission or get a court's approval," answered Janie.

Although the above situation is fictionalized, many teenagers are coming face to face with this problem. Because teenage pregnancy has become a topic that has received a great deal of national attention, we are also faced with the constitutional right of a pregnant woman to have an abortion.

In the case of Roe vs. Wade in 1973, the Supreme Court ruled that the abortion decision should be between the woman and her doctor. This decision gave women the constitutional right to have an abortion. The issue that is now being debated is the constitutional rights of pregnant teenagers to have an abortion without parental permission.

The bill that has been proposed to the Kansas legislature states that in order for a teenager to have an abortion she must have parental permission or have a judge's approval. People who are supporting this bill feel that it is the parents' right to know if their child is going to go through a medical operation such as an abortion.

These supporters have two main reasons for supporting this bill. The first is that parents have the right to know if their daughter is going to have an abortion. In the present situation teens in Kansas do not have to have parental permission before having an abortion, and, because of this, pro-life activists feel that the government is contributing to the breakdown of family relationships.

The second reason is that if this bill is passed it will teach teenagers responsibility in their sexual activity. Supporters of the parental permission bill believe that if teenagers are completely responsible they would wait until marriage before becoming sexually active, and if they know that they will need parental permission before obtaining an abortion then they will "think twice" about becoming sexually active.

The pro-life activists are pushing this bill because it is a first step to ending abortion completely. Many people believe that if abortion is made illegal the situation would become worse. Pro-life activists also support the idea that if parental permission is required then the rate of teenage pregnancies will decrease.

This statement was proved to be false by a study in Minnesota. This study provided the first comprehensive factual record of the actual effects of mandatory parental involvement. The research and study took place over a five year time period, and it involved culminating testimony by single parents, minors, abortion clinic nurses and counselors, physicians, psychiatrists, state court judges, guardians and public defenders.

Although the legislature believed the law would help minors, the evidence proved that the law was a failure.

The parental notification law in Minnesota raised the teenage birthrate in Minneapolis, created more teenage mothers, added a new generation of unwanted children, increased the number of dangerous second trimester abortions for minors and reduced the number of individual doctors willing to do abortions on minors.

Even though the parental permission law is designed to better the communication between parents and their children, over half of the teenage abortions performed during that time were granted through the courts. In the time period from 1981 to 1983, the Minnesota mandatory parental notification law was imposed on over 7,000 pregnant minors between the ages of 13 and 17, and of these minors almost 3,500 went to the state court to seek a confidential abortion. Of these 3,500 minors who went through the court system, only four were unable to obtain permission for an abortion.

The experience in Minnesota is not unique. There have been similar studies in Massachusetts and other states with the mandatory parental involvement laws. There are 26 states that have this law, but not all of them are strongly enforcing the parental permission law.

Planned Parenthood stated in a letter brought before the Kansas Legislature that these laws are headed for failure because love and communication between family members cannot be created through law. Planned Parenthood feels that these laws are unconstitutional and sacrifice the privacy rights of minors and achieve no positive or lawful goal. They believe that the real needs of minors are never addressed.

Many people believe that it is safer for a teenager to go through with the pregnancy than to have an abortion. This is not true. The Planned Parenthood's Fact Sheet states that abortion is one of the most commonly performed surgical procedures and is 10 times safer than carrying a pregnancy to term.

Some pro-choice activists believe that abortion is not the issue that should be addressed. They feel that instead of focusing on abortion, the government should gear their thoughts toward sex education classes in the school system. Planned Parenthood believes that if teenagers were fully aware of the different types of protection devices available, the rate of unexpected pregnancy would decrease.

There are many teenagers who do not agree with the bill being proposed. They feel that it is a violation of their privacy.

"I think that the decision should be left up to the teenager," stated senior Jeanie Hupp, adding, "If the pregnant teenager would like her parents to be involved, then that is her decision."

However, senior Chris Wimmer supports the bill. "I believe that a girl should have to get concent from the parents because a girl that age is too young to make that type of a decision," Wimmer stated. "The only way I don't feel she should have to go to her parents is if there is already no communication between the parents and the pregnant teenager," he added.

The topic of teenage abortion is a very controversial one, and it is a topic that is beginning to receive national attention. Both sides have stated their opinions, but by the evidence gathered from research it can be concluded that the law does more harm to pregnant teenagers than good.

OPINION

Can morality be legislated?

If a teen decides to have an abortion, she has already overcome the hard part; she has already decided that she cannot possibly have a baby at this time in her life. By putting a teenage girl in the position of having to get permission, we are making it more likely that she will get an illegal abortion, as she has already decided that abortion is her best option.

Having an illegal abortion is dangerous. By making abortion a legal option we are eliminating much of the danger with regulations for sanitary surroundings and tools, as well as for the advantages of counseling for informed and healthy decisions. Given no choice, a teen may resort to an illegal abortion, and perhaps die because of it. There is no doubt that illegal abortions are available in this country and have been for a long time.

"Abortion is a reality in this country. It can be a criminal reality, as it was in the 1960s when police experts called abortion the third largest illegal activity in the country, following only narcotics and gambling," said David Awbrey, in the Jan. 20 issue of the Wichita Eagle-Beacon. But it's always been a reality, even over a hundred years ago. The Michigan Board of Health reported in 1878 that one third of all pregnancies in that state ended in abortion.

Teenage pregnancy is a growing problem in America; one for which no one seems to have a solution. Abortion or adoption are two acceptable options right now, however most teen mothers who do not abort are unwilling to give their child up for adoption, often sacrificing education or job training to keep the child. If we eliminate abortion as an option except through a parent's or judge's concent, we are in many cases sentencing these teen mothers to a life of diapers and welfare.

"Until we, as parents, as religions communities and as a society, remove the belief that unwed mothers are created by an act of shame and are destined to carry this shame for an eternity, the [abortion] flame shall forever be fueled," said Mike Shogren in the Dec. 29 issue of the Wichita Eagle-Beacon.

We cannot make abortion into a crime until we decide that pregnancy is always virtue. According to the current law, abortion is legal, and while some do not believe it is right, how do we legislate morality?

The Wichita Eagle
Established 1872

The Wichita
Eagle-Beacon

The Wichita Beacon
Established 1872

REID ASHE
Publisher

DAVIS MERRITT, Jr.
Executive Editor

KEITH MURRAY
General Manager

WILLIAM R. HANDY
Managing Editor

GEORGE NEAVOLL
Editorial Page Editor

Editorials

Parental consent

Abortion foes divide support

ON March 6, a bill requiring unmarried females under age 18 to get their parents' permission for an abortion passed the Kansas Senate. Although the measure has the good intention of drawing parents and their daughters closer together at a time of severe emotional stress for the young woman, it merely aggravates the trauma facing a teenager with an unwanted pregnancy.

Indeed, the proposal now in a House committee is so ill-advised that it has drawn fire from both sides of the abortion debate.

The bill's proponents maintain that SB 91 would strengthen family communication and allow parents to help determine the best outcome of the pregnancy; yet, the judicial consent provision of the bill still would allow pregnant teens to bypass parental notification. This bill is being represented as strengthening parental rights; in reality, it probably won't. For that reason, the anti-abortion group, Right to Life of Kansas, is actively working against passage of this bill.

Right to Life of Kansas objects to the requirement that school nurses and counselors must inform pregnant teens of their right to petition the courts for permission to abort. It also dislikes the anonymity of the judicial consent petition that the minor would file in court, with the help of a state social worker.

The judicial consent provision was needed, however, to comply with U.S. Supreme Court rulings on similar parental consent laws in other states. In the Kansas Senate bill, the judicial consent provision allows any pregnant minor permission to receive an abortion by judicial consent, even if she only "elects not to seek the consent of those whose consent is required" — a parent, grandparent or guardian. To some anti-abortion people, that provision guts any effective parental oversight of their daughter's decision.

The bill now is resting in the House Federal and State Affairs committee, and it should remain there. The constitutionally necessary legal guidelines make the measure unacceptable to many people in the pro-life movement. The measure's potential threat to abortion rights make it unacceptable to pro-choice advocates.

Teenage abortion wouldn't be the volatile issue it now is if there were fewer teen pregnancies — through teaching the importance of abstinence and, if necessary, birth control counseling. That's where enhanced communication between parent and child truly belongs.

Fundamentalist Teens Are Sexually Active

NOW Times April '88

Forty-three percent of teenagers who attend fundamentalist churches have had sex by the age of 18, according to a survey by eight evangelical denominations. The report, "Teen Sex Survey in the Evangelical Church," found that one-third of the respondents declined to say that sex outside marriage is morally unacceptable.

Thirty-five percent of the 17 year-olds said they had engaged in sexual intercourse and 26 percent of the 16 year-olds said they had had sexual intercourse. This compares to a Louis Harris poll in December, 1986, that found that 57 percent of the nation's 17 year-olds had engaged in intercourse and 46 percent of 16 year-olds had also.

In the evangelical survey, 38 percent of the teens said they obtain most of their information about sex from their friends, 27 percent listed movies as their main information source, and 23 percent said parents and school classes provide their information on sex.

The confidential survey was taken among 1,438 young people between the ages of 12 and 18. According to the "Public Affairs Action Letter" of Planned Parenthood Federation of America, 83 percent said they were regular churchgoers, 82 percent said they accept Jesus Christ as their personal savior and 67 percent said the Bible is a "totally reliable guide for all situations."

Planned Parenthood®
of Greater Kansas City   Serving Western Missouri and Eastern Kansas since 1935

BOARD OF DIRECTORS
PRESIDENT
Susan R. Jacobson
VICE PRESIDENT
Stacey Daniels, Ph.D.
SECRETARY
Nancy M. Hatch
TREASURER
Brian Braham
Naomi Adelman
Judy Barlow
Mary L. Baskett
Conger Beasley, Jr.
Janet B. Clymer
Fern M. Cole
Katherine C. Eike
Mark Firestone
Allan S. Gray, II
Dot Nance Hager
Lisa White Hardwick
Sarah Hatfield
Harlene Hipsh
Alice Jacks
Diana Kline
Jody Hanes Maughan
Mary Leathers Montello
Marilyn Moore
Dorothy D. Reister, M.D.
Steven W. Samazin
Susan D. Schmelzer, Ph.D.
Marsha Seyffert
Michael T. Shields
Beverly Simmons
Margaret Jo Smith
Debbie Sosland-Edelman, Ph.D.
The Rev. Judith A. Walker-Riggs
Jerry White
David Wolff
EX OFFICIO
Henry Bishop, M.D.
Douglas Ghertner
Marguerite Quirey
The Rev. George Tormohlen
Paul Uhlmann, Jr.
MEDICAL COMMITTEE CHAIRMAN
Henry Bishop, M.D.
MEDICAL DIRECTOR
Mark D. Gray, M.D.
EXECUTIVE DIRECTOR
Karen Cody Carlson
ADVISORY COUNCIL
CHAIRMAN
Paul Uhlmann, Jr.
VICE CHAIRMAN
Ms. Suzanne Allen Weber
Dr. Eliot S. Berkley
The Very Rev. J. Earl Cavanaugh
Charles E. Curran
Mrs. Thomas E. Deacy, Jr.
Ernest A. Dick
Mrs. George Dillon
E. Grey Dimond, M.D.
Mrs. JoAnn Field
John B. Francis
Dr. George F. Garcia
Mrs. Ralph L. Gray
Mrs. Moulton Green, Jr.
Fred R. Havens
Walter Hiersteiner
Mrs. Gordon B. Hurlbut
Mrs. Herman A. Johnson
Harry S. Jonas, M.D.
Kermit E. Krantz, M.D.
John Latshaw
Harold S. Melcher
Dr. Robert H. Meneilly
Clyde Nichols, Jr.
Miller Nichols
Everett P. O'Neal
Mrs. Herbert O. Peet
Mrs. William L. Pence
Dr. George A. Russell
Dr. Tex Sample
Katherine W. Smith, M.D.
Mrs. Morton I. Sosland
James P. Sunderland
Herman R. Sutherland
Dr. John M. Swomley, Jr.
Monroe Taliaferro
The Rev. Murray L. Trelease
R. H. Uhlmann
Charles B. Wheeler, M.D.
Mrs. Thomas J. Wood, Jr.

March 28, 1989

The Honorable Ginger Barr, Chair
Committee on Federal and State Affairs
Kansas House
State Capitol Building
Topeka, Kansas 66612

Dear Representative Barr and Members of the Committee:

We oppose passage of Senate Bill No. 91 which would require parental consent or judicial authorization for minors seeking abortions.

Because we are a not-for-profit agency which provides reproductive health services and education to residents of both Kansas and Missouri, we have had experience with the parental consent law in Missouri. We know that most young women have already involved their parents in their decision to terminate their pregnancy and others decide to do so after being so encouraged by our conselors. The younger the adolescent, the more apt her parents are to be involved. Even then, the consent requirement often causes delay.

On the other hand, apporximately twenty-five percent of teenagers seeking abortions have important reasons not to tell their parents about their pregnancy or their decision to terminate it. Laws such as SB91 force these women either to bear a child, to inform parents with usually devastating consequences, to suffer through a traumatic and futile judicial proceeding or to seek to terminate the pregnancy in another state--or by illegal or unsafe methods. Considering these punitive choices, it is not surprising that laws similiar to SB91 are not being enforced or are enjoined in more than twenty states because they are believed to violate the constitutional right to choose an abortion.

Minnesota's five-year experience with its parental notification law was examined in Hodgson v. State of Minnesota, 648 F. Supp. 756 (D. Minn. 1986). In that case (which is currently being appealed to the U.S. Supreme Court), the district court concluded that,

> five weeks of trial have produced no factual basis upon which this court can find that /the Minnesota statute/ on the whole furthers in any meaningful way the state's interest in protecting pregnant minors or assuring family integrity.

For these reasons, these laws are opposed by the American Medical Association, the American Psychiatric Association, the American Psychological Association and the National Association of Social Workers.

Please protect the young women of Kansas from the dangers of this legislation. Please vote against Senate Bill No. 91.

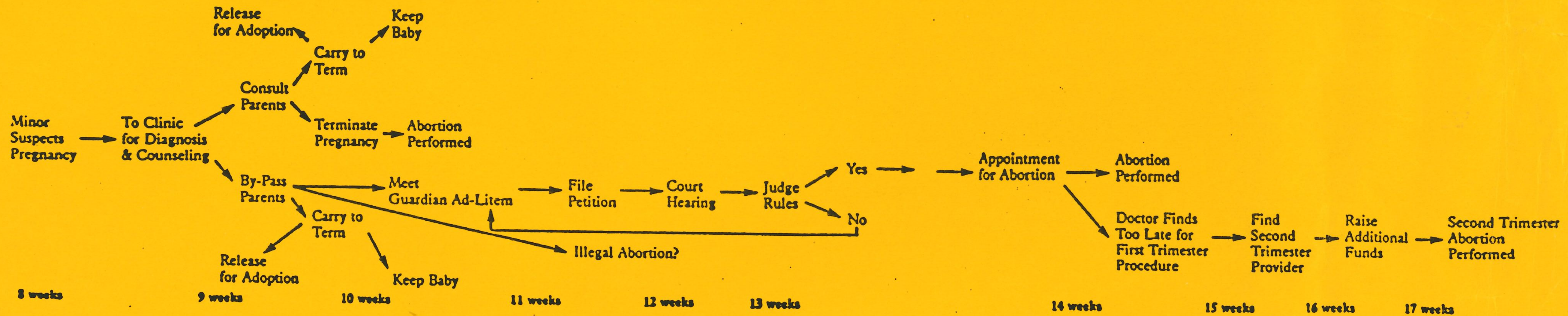
Sincerely yours,

Susan R. Jacobson

Susan R. Jacobson, President

1001 East 47th Street, Kansas City, Missouri 64110-1699 (816) 756-2277

The Impact of Mandatory Parental or Judicial Involvement



George R. Tiller M.D. DABFP Medical Director
Cathy Reavis R.N., N.P. Director of Nursing
Elana Fritchman Administrative Director
Peggy Jarman Public Relations

Women's Health
Care Services P.A.

5107 East Kellogg • Wichita, Kansas 67218 • (316) 684-5108

To: Chair and Members of the Federal and State Affairs Committee
From: Peggy J. Jarman
Regarding: S.B. 91

1. Most teens have their parents consent prior to having an abortion.

2. Though most medical care for minors require parental consent, this does not apply to pregnancy (K.S.A. 38-123) or treatment of sexually transmitted disease (K.S.A. 65-2892). K.S.A. 38 -123 says that the consent of a parent or guardian shall not be necessary in order to authorize hospital, medical and surgical care related to her pregnancy. The legislature passed these laws because they knew some teens would be at risk if they had to tell parents about their sexual activity. Amending K.S.A. 38-123 says, in effect, that a minor is mentally competent to give consent for all health care relating to pregnancy and then suggests that these same minors become incompentent the moment they consider an abortion.

3. SRS has almost 25,000 cases of child abuse and neglect. This is an example of the severity of the problem of dysfunctional families.

4. The judicial bypass may attempt to address this problem, but in states where the bypass is used, we have the following data:

a) Teen births increase. (In 1985, Kansas spent over $143 million on families that started when the mother was a teenager).
b) Judges, lawyers, guardians, public defenders, counselors, physicians, psychologists, and psychiatrists involved in the implementation of the judicial bypass procedure stated overwhelmingly that it was a dismal and unmitigating failure.
c) The number of second trimseter abortions increased.
d) Compromised sound medical care by creating a process that forced counselors to focus on reducing the anxiety of going to court rather than on the medical and emotional needs of their teenage patients.
e) Stunning indictment of a state imposed system that hurts teenagers to the benefit of none.

The goal of parental involvement is very admireable. The reality is that quality family communication cannot be legislated. If it were possible to do so, you would have legislated appropriate communication on sex, drugs, crime, etc. long ago. It is easy enough to understand why parental consent laws do not work and are domed to failure. Parents do have the right to communicate with their children, but communication must be a two way street. Just to legislate that teens must talk to parents about abortion can do nothing in terms of solving the problems that exist in families today. I urge you to vote against S.B. 91.

W.H.C.S.
Team Care

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 2
3/28/89

Adolescent
HEALTH SERVICES

Department of Family and Community Medicine
The University of Kansas School of Medicine-Wichita

Thank you for the opportunity to testify on the parental consent bill. I speak to you as a parent of two teenagers, as a family physician in this state for the past 10 years, and as director of Adolescent Health Services at the University of Kansas School of Medicine at Wichita.

I would like to tell you about three adolescents who stand out in my mind among those I have treated over the past five years. I have changed the names to protect the identity of the girls and their families.

The first, Julie, was the only child of well-to-do parents who had great plans for their daughter. As is often the case when parents have plans for their children that aren't shared by the children, there was considerable conflict between the parents and Julie. As the conflict escalated, Julie attempted in progressively destructive ways to "prove who was really in control." This power struggle led, ultimately, to Julie becoming pregnant at 17, while she was still in high school. Her choice was to continue in school, have the baby, and try to raise the child herself. Her parents, however, had other ideas, and told her that if she did not get an abortion, she would have to move out of the house, be disinherited, and have no further contact with the family. I first saw this young lady after she had submitted to a forced, unwanted abortion, and was significantly depressed over the events of the previous six months.

The second, Mary, was one of five children in a large family, headed by an alcoholic father. Mary was 15, had difficulties pleasing her father, and concerns about the welfare of her mother. In trying to bolster her own self esteem, she become involved with a man ten years older than she, and ended up with an unplanned pregnancy. Mary was so frightened about the rage of her father if he were to find out about her pregnancy, and the disappointment of her mother, that she attempted to terminate the pregnancy by herself, with a coat hanger. She ended up with a serious infection, lost the pregnancy, her uterus, and nearly her life.

The third young lady, Susie, was a straight A student, a senior in high school, who hid her pregnancy from her parents until she was nearly seven months along. She kept cancelling appointments in the adolescent clinic, until we finally persuaded her to at least come in and talk, and try to let us help her.

316-261-2607
1010 N. Kansas • Wichita, Kansas
67214-3199

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 3
3/28/89

She had planned to simply leave the city, write her parents about what had happened, and have her baby alone, by herself without medical help, to avoid disappointing her family, her friends and her teachers. We persuaded her to let us help her talk to her family, (whom we knew to be supportive) and she remained with them, had her child and is raising it with the help of her family.

The fourth young lady, whom I saw recently, we'll call her Janie, was brought in by her mother because the girl had admitted that she had recently had intercourse with two older boys. The mother demanded that she be forcibly examined, and announced that "if she were pregnant or had any diseases, that she deserved what she got, and that if she were pregnant, she would just have to have the baby and stay home with her and raise it." Luckily, this teenager was not pregnant at that visit. However, given the situation in the home, the odds are that she will become pregnant before she graduates from high school. The mother, incidentally, refused permission for contraceptive care at that same visit.

The problem of adolescent pregnancy belongs to all of us. Four out of ten teenagers will become involved in a pregnancy before they graduate from high school. It is a problem that crosses socioeconomic, racial, and educational boundaries, and is complex in both its etiology, and its solutions. It is a problem that stunts the development of those youth affected by it, often shortening the course of their education, and forcing them prematurely into roles for which they are ill-prepared. The cost to those affected, to their offspring, and to all of us is incredibly high, and the seriousness of the problem demands our thoughtful response, in terms of prevention, but also in terms of how we handle those youth faced with either an unplanned or a planned pregnancy.

The four cases I mentioned are true stories, each with a different set of problems, and a different outcome. The only similarity in the stories of all of these girls is that each of them needed help from competent, concerned professionals. Several of them needed protection from adults who had preconceived ideas about what was "best". In each case the adults had a different view of the solution. In each case, what was most important was that the youth receive appropriate medical and emotional support.

Because many youth who get pregnant in adolescence do so in the context of family discord, and occasionally do so in power struggles with parents, we cannot assume that in these families, the solutions, whatever they are, will necessarily have the welfare of the teenager as a first priority. When "who is right" in such power struggles becomes more important than "what is best for the adolescent," then solutions vary according to who has the

most power, according to who is the most frightened, and according to what is sometimes the most expedient or convenient solution.

Our first priority for youth who are faced with an unplanned pregnancy must be protecting their right to compassionate and thorough care. If required parental consent prevents that, it does not work in the best interests of youth in obtaining early qualified care, in the best interests of families, who may be caught in power struggles with their adolescents that cloud their vision, or in the best interests of society, who bears the burden of the medical, emotional, and social consequences of decisions made from fear rather than from accurate information and professional guidance.

Ideally, when a teenager is faced with a pregnancy, health professionals, parents, and the prospective teenage parents work together to find the best solution given the circumstances involved. When parental consent is mandated, it forces those youth who are in homes where there is family dysfunction, to further delay care, obtain substandard or dangerous care, out of fear; or it allows parents, who sometimes are more intent on proving who is right than they are in taking care of their children, to determine or force the outcome -- and that outcome, as illustrated in the cases discussed can be no care, abortion, forced parenthood, forced adoption, or dangerous care. For families who are in this situation, whatever the reason, it is important to protect the rights of the youth to competent, compassionate, health care.

As a professional who works with youth, and with families of many types, I would encourage you to vote "no" on this parental consent bill, so that the one outcome that can be assured is access to adequate care, without fear, for all youth faced with the crises of a pregnancy.

Beth Alexander, M.D., M.S.
Director, Adolescent Health Services
Department of Family and Comminity Medicine
University of Kansas School of Medicine-Wichita

MARCH 28, 1989

HERBERT C. HODES, M.D.
4840 COLLEGE BOULEVARD
SUITE 100
OVERLAND PARK, KANSAS 66211
TELEPHONE (913) 491-6878

Representative Barr, Members of the Committee, other speakers, Ladies and Gentlemen:

My name is Herbert Hodes. I am a medical doctor, certified by the American Board of Obstetrics and Gynecology in this branch of medicine which involves the reproductive and general health care of women of all ages, and during pregnancy and delivery. My practice has been in Overland Park for over 14 years. My medical school and residency training have been at the Kansas University Medical Center in Kansas City, KS.

My wife and I are the parents of 4 teenagers -- twin boys, age 16; and two daughters, one age 18 and one almost 17. I am also a concerned taxpayer of the State of Kansas.

I am here today to speak in OPPOSITION to the Senate Bill # 91 requiring parental consent for medical care for unplanned and unwanted pregnancies. I am in good company in my opposition --- 120,000 other physicians (represented by the American Medical Association, the American Academy of Pediatrics, and the American College of Obstetrics and Gynecology) as well as 20,000 Nurses (represented by the Nurses Association of Obstetrics and Gynecology) have also gone on record in their <u>opposition</u> to regulations that limit privacy.

During the years of my training at the Kansas University Medical Center if the early 1970's, I had the unfortunate opportunity to care for many young women who were seriously ill following illegal abortions and attempts at self-abortion with knitting needles, Lysol, and Clorox. Miraculously, I personally saw no one die; but many young women were rendered sterile due to overwhelming infection or following life-saving radical surgery.

In the past 16 years of safe, legal abortion, I have been involved with continuing care of thousand of women -- all of whom have done extremely well. I have NEVER seen a case of the so-called "Post-Abortion Syndrome".

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 4
3/28/89

As a parent, I would resent the intrusion of the State in personal family matters. If either of my 2 daughters wanted to obtain a safe, legal abortion, yet she was afraid to tell us --- that is her right! I would hope that our relationship over her growing-up years would give her the assurance that we would support her CHOICE. The Government (on any level) can not correct or strengbhen overnight a relationship or bond which has not developed on its own over the life of a young woman.

Finally, as a citizen of Kansas, I read that failure to follow this proposed Law would be a Class A Misdemeanor; but I see no mention of how it would be enforced. How is a physician to determine the true age of a patient? Is this older women who is with her truly her mother? Is it her older sister, her teacher, her boyfriend's older sister, her boyfriend's mother? How will records be kept? How many secretaries will be required to keep the records and write the rports? How many "inspectors" will be required in order to police the entire State and inspect our offices? How many automobiles will they need? Will they wear uniforms?...........carry guns?..........badges??

Passage of this Bill will not stop abortions in the State of Kansas, but merely increase the delay so that the patient is further along when she finally does get to the proper facility. The poorer, less-educated patient is not going to understand how to enter the Court System in order to obtain a Court Order. She will undoubtably remain pregnant and deliver thus furthering the tragic cycle of poverty and Welfare assistance.

The last 19 years of my life have been devoted to the health care of women of all ages. I feel I am probably one of the most qualified persons in this room to speak against this Bill. My motives are purely Medical. I welcome your questions and appreciate your attention. Thank you.

Around Kansas City

The Times Staff

KC man shot to death on street; police lack suspect

A 29-year-old Kansas City ... Police had not released the ... firm submitted the lowest of ... of a contract approved on Tuesday by the Kansas City Board of Parks and Recreation Commissioners.

The board awarded a $429,000 ... about 10 bids, according to Mike Malyn, a park department official.

Malyn said the project would take most of the summer.

College student arrested in death of newborn baby

The Associated Press

ATCHISON, Kan. — A Benedictine College student has been charged with first-degree murder in the slaying of her infant daughter, authorities said.

The student, Jean Franks, 19, a freshman from Mooseheart, Ill., was under police guard Tuesday at an Atchison hospital. The body of the newborn girl was found in a trash dumpster behind the women's residence hall at Benedictine.

Franks was arrested Monday night and charged Tuesday, said Atchison County Attorney Gunnar Sundby. Bond was set at $100,000.

A preliminary autopsy report indicated that the baby, who appeared to be full-term and alive at birth, was strangled. The autopsy report said a knotted nylon cord was found around the baby's neck.

Police Chief Ron Pickman said police were called Monday after a man looking for aluminum cans found the baby's body. It was wrapped in a sweatshirt and placed in a small cardboard box inside a plastic trash bag.

Pickman said preliminary investigation indicated that the body had been in the dumpster between four and 12 hours.

The woman was taken to the hospital for a medical examination immediately after she was taken into custody.

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 4B
3/28/89

TESTIMONY OF G. GORDON ATCHESON
REGARDING SENATE BILL NO. 91
March 28, 1989

Synopsis: S.B. 91 unconstitutionally denies equal protection and due process rights to women under the age of 18 who seek abortions. In the absence of parental consent, S.B. 91 requires the young woman to obtain a judicial determination that she is mature enough to decide the matter. The Bill prohibits the physician who will perform the abortion from confirming such a judicial determination. This alone denies due process. The Bill provides no standards to guide the District Court and offers a confusing and insufficient appellate remedy. This also violates due process protections.

In light of K.S.A. 38-123b, allowing minors 16 or older to consent to any medical or surgical treatment in their parents' absence, S.B. 91 may violate equal protection requirements by singling out those minors over 16 who seek abortions for discriminatory treatment. Treating emancipated and unemancipated minors differently may also violate equal protection.

In addition, S.B. 91 contains numerous legal deficiencies that would create substantial problems. These difficulties may not render the Bill unconstitutional but suggest it is very poorly drafted.

I. INTRODUCTION

As a lawyer practicing in Overland Park, I will attempt to address certain basic legal questions posed and problems created by Senate Bill No. 91. I will leave to others the debate regarding the medical, sociological and philosophical implications of this proposed legislation.

Commonly known as the "Parental Consent for Abortion Bill," this proposal is of doubtful constitutionality. It infringes upon due process and equal protection rights secured both through the United States Constitution and the Kansas Constitution. Further, it impermissibly intrudes upon the fundamental right of

privacy that implicitly undergirds the freedoms guaranteed in both the United States and Kansas Bills of Rights. The right to privacy is, perhaps, most precious and most closely guarded by the courts in decision making regarding reproductive freedom and family planning. These are rights enjoyed by all citizens, regardless of their age.

The law is clear: A woman, in consultation with her physician, may freely choose to use birth control or terminate an unwanted pregnancy. Those decision ought not be subjected to public scrutiny or comment; they are to be made in the sanctuary of a woman's heart and mind, based on her own religious or philosophical convictions. The government may not unduly burden or hinder that freedom to choose. Likewise, the powers of the State may not be brought to bear to prevent a woman from effectuating her choice. Abortion is a legally and medically acceptable family planning option.

Ultimately, parental consent laws of any type inhibit the freedom to choose and the right of privacy. As such, these laws represent poor public policy. They cannot fill the void created by inadequate sex education in the home, the schools and the community generally.

Everyone agrees that ideally a woman under the age of 18 should feel able to consult with her parents before seeking medical care or undergoing surgery of any kind. Pro-choice organizations are acutely aware of the benefits of discussion and harmonious decision making within the family on matters of

reproductive choice. Ideally, too, a woman exercising her right to have an abortion should be free from the emotional and, at times, actual physical pressures imposed by anti-choice zealots. Unfortunately, we do not live in an ideal world. Legislation such as S.B. 91 only serves to exacerbate the already difficult circumstances confronting the young woman facing an unwanted pregnancy.

When a pregnant woman under the age of 18 believes that she cannot even discuss family planning alternatives with her parents, she and society generally face a bad situation. The question the legislature must consider is: "How can we make the best of this bad situation?"

While the State has an obligation to look out for the best interests of those under 18 years of age, that does not automatically mean the government should limit or regulate the conduct of young people. The government may, in fact, fulfill the duty by refraining from any action whatsoever.

The answer here is not to force the young woman to confront her parents and hope they give their assent for an abortion or to force the young woman to venture into an often confusing and frightening judicial process. These alternatives can only make things worse.

Frankly, the logical answer is simply to recognize that if the young woman is old enough to become pregnant she is old enough to decide with whom she wishes to consult about this

situation and ultimately how she personally wishes to deal with it.

II. S.B. 91 DENIES UNEMANCIPATED PREGNANT WOMEN DUE PROCESS OF LAW

The State may not lawfully preclude women from obtaining abortions either by explicitly prohibiting physicians from performing such medical procedures or by establishing rules and requirements so intricate and onerous as to limit availability of abortion services as a practical matter. S.B. 91 creates a statutory scheme that is ultimately doomed to fail any effort by an unemancipated pregnant woman to obtain an abortion without parental consent.

In the absence of parental consent, the young woman is required to petition the court for a determination that she is "mature and well-informed enough" to make a decision on whether or not to have an abortion or, in the alternative, that the abortion would be in her best interests in any event. The pleadings are to be filed using only the petitioner's initials and all court documents are to be kept strictly confidential, under the terms of the Bill.

At the same time, the treating physician is required to obtain prior written consent from the minor patient setting out the date of the court order waiving parental consent, the case number and that she has acknowledged being informed of certain aspects of the procedure. S.B. 91, however, provides no way for the physician to verify that such an order, in fact, has been granted because the court records are to be kept confidential.

The confidentiality restrictions set out in the Bill preclude the judge or the court clerk from releasing the order or any information about it to the treating physician.

Therefore, the treating physician must rely solely upon the representations of the patient that such an order has indeed been entered. If there were no such order or the patient were mistaken about its contents, the treating physician would be subject to prosecution for aggravated abortion, a felony carrying a penalty of up to three to ten years in prison. Under these circumstances, it would be the rare physician who would proceed to perform the abortion.

It is not apparent whether this Catch 22 -- imposing heavy criminal penalties on a physician performing an abortion on a minor without a court order and yet denying the physician the power to confirm the existence of such an order -- results from poor draftsmanship or is an insidious attempt to deny young women the right to obtain abortions without parental consent. In either case, this defect is of constitional magnitude and amounts to a clear deprivation of fundamental due process rights.

In addition, while the District Court is required to decide the merits of the petition, the judge may choose to admit or to bar any relevant evidence that the young woman may care to present. S.B. 91 appears to allow the District Court to arrive at a decision without taking any evidence whatsoever. Likewise, the statute provides no guidelines to the court regarding the quality of the proof the young woman must offer. In other words,

it is not clear whether the young woman must merely make a probable cause showing that she is mature and well-informed or whether she must show by a preponderance of the evidence or by clear and convincing evidence that she meets this standard. This sort of vagueness is constitutionally suspect. It opens the door to radically different results in cases that are factually the same.

Similar constitutional denials of due process exist in the appellate procedure set out in S.B. 91. The District Court is required to rule on the young woman's petition within "five days" of its filing. If the District Court denies the petition, the young woman may take an appeal to the Court of Appeals. The Clerk of the District Court is to forward the "official file" to the Clerk of the Court of Appeals within five days of the filing of the notice of appeal. The hearing is then to be held by the Appellate Court, and an order issued five days thereafter.

Pursuant to K.S.A. 60-206(a), Saturdays, Sundays, and legal holidays are excluded in computing these time periods. As a result, the minimum elapsed time from the filing of the petition with the District Court through appellate review could be as much as 42 days or six weeks. For most judicial matters this would be extraordinarily rapid. But in the case of a pregnant woman seeking an abortion, that time may be the difference between a relatively safe procedure and a relatively risky one. In certain instances, it may be the difference between having an abortion and being forced to carry an unwanted pregnancy to term. While

the U.S. Supreme Court has not spelled out what time requirements pass constitutional muster, it has always recognized that time is of the essence with regard to free choice in abortion decisions. Once an appellate procedure is provided, that procedure must afford an opportunity to be heard in a meaningful way.

Moreover, the Court of Appeals would be required to rule based on the "official file" consisting only of the petition, process, service of process, orders, writs and journal entries reflecting hearings held and judgments and decrees entered by the court. See, K.S.A. 38-1506(a). The file woud not include the transcripts of any hearings held. Thus, the Court of Appeals would be denied review of any testimony offered to the District Court judge in support of the young woman's petition. Without a transcript of such testimony, the Court of Appeals could not reasonably make an independent determination as to whether or not the District Court acted soundly in denying the petition. Therefore, the right of appeal afforded under S.B. 91 is, in fact, no meaningful appeal at all.

III. S.B. 91 DENIES EQUAL PROTECTION OF LAW TO UNEMANCIPATED WOMEN WHO ARE PREGNANT

Under the terms of S.B. 91, a married woman under the age of 18 who is pregnant need not seek parental consent or a judicial order before seeking an abortion. As a result, S.B. 91 draws a distinction between pregnant women under the age of 18 based solely on marital status. There is serious question whether this sort of discrimination is constitutionally permissible. For example, there is very little reason to assume that a married 17

year old woman is any more "mature" than an unmarried 17 year old woman.

To be constitutionally permissible, distinctions drawn based on marital status very likely would have to further a substantial governmental interest and be tailored to promoting that interest. While the State has a certain obligation to protect minors, it is difficult to see how distinctions drawn based on marital status are carefully tailored to that duty.

Also, in light of K.S.A. 38-123b, there is serious question whether S.B. 91 would survive a constitutional challenge on equal protection grounds. K.S.A. 38-123b permits any minor more than 16 years old to give consent to any medical or surgical treatment or procedure in the absence of his or her parent. This statute is in obvious conflict with S.B. 91, which imposes much sterner limits on a pregnant young woman seeking an abortion. In other words, S.B. 91 singles out those young women seeking abortions and discriminates against them by treating them differently or unequally under the law as compared to all other minors over the age of 16.

There is very little justification for this distinction. An abortion performed early in pregnancy is statistically a very safe surgical procedure. Many other surgical procedures carry a much higher risk of complication or injury for the patient. Nonetheless, a minor over the age of 16 is permitted to give his or her consent for such procedures. In contrast, a pregnant young woman of the same age would not be permitted to consent to

an abortion without her parents' approval or going through a complicated judicial proceeding. This type of discrimination is constitutionally suspect.

IV. OTHER DEFICIENCIES IN S.B. 91

S.B. 91 contains a number of other problems and should raise a number of concerns among the legislators considering it. Each of them suggests that the measure ought not be enacted. These troublesome areas include:

1. The definition of "parent." (Sec. 1(e)). This definition includes grandparents and those persons liable under the law for the support of the minor. Does this mean that a minor may obtain the consent of one of her grandparents in lieu of her parents, even though they may be available and simply unwilling to give their approval? If so, there may be as many as 6 persons to whom a minor may turn for consent, even though the grandparents may have little or no direct contact with the minor. Likewise, a non-custodial parent who provides support would be permitted to give consent under this statute.

2. Under § 3(c), a Department of Social and Rehabilitation Services social worker is to see that a petition is filed on behalf of the minor seeking a judicial hearing. Acting in this manner, the social worker is probably engaging in the unauthorized practice of law.

3. While the minor is not required to pay any fees or court costs, she is to be represented by counsel throughout these proceedings. Assuming the fees for the appointed counsel fall

within the terms of § 3(k), the county in which the petition is filed will be required to bear these expenses. Should the tax payers be burdened with this additional expense for a process that really serves no compelling public interest?

4. The District Court proceeding is very poorly defined. As noted, there is no standard for the court to follow. There is no requirement that the court hear any evidence the minor may offer. And, no guidance to the court as to what it can or should consider in arriving at its ruling. In short, the process is open to the arbitrariness and capriciousness of the individual judge. In all likelihood, this will lead to markedly different results in very similar cases. This does not serve any meaningful public good.

5. The appellate process is very poorly defined. The record to the Appellate Court, as noted, would contain none of the testimony or other evidence received by the District Court. This, combined with the lack of clear standards for the District Court, bars any meaningful review. It would be very difficult for an Appellate Court to second guess a trial judge where there is no evidence in the record and there are no statutory guidelines as to the standard of review the District Court is to apply. Also, the appellate procedure outlined in § 3(h) bears very little resemblance to the current appellate practice in all other cases. Ordinarily, an appeal is submitted to the Appellate Court based on written submissions by the attorneys and oral arguments. S.B. 91, however, speaks of a "hearing" to be held

before the Appellate Courts. Is this intended to be different than merely an oral argument of questions of law? Is it intended to permit introduction of the same evidence received at the trial court or additional evidence in the form of testimony? The proposed language could be read to mean that another full blown hearing is to be conducted in front of the Court of Appeals.

V. CONCLUSION

In summary, S.B. 91 is rife with legal inadequacies, several of which are of constitutional dimension. If this Bill were enacted, the courts almost certainly would strike it down as unconstitutional. Moreover, the measure creates many more problems than it is designed to solve. It represents both poor public policy and a lack of due regard for the fundamental rights of our State citizens, most notably, women under the age of 18. The legislature should not be in the business of passing laws so at odds with the public's needs and best interests.

Respectfully submitted,

G. Gordon Atcheson

CURRICULUM VITAE

Name:	William J. Cameron
Position:	Professor Department of Gynecology and Obstetrics The University of Kansas Medical Center
Address:	The University of Kansas Medical Center College of Health Sciences and Hospital 39th and Rainbow Boulevard Kansas City, Kansas 66103
Place of Birth:	Lansing, Michigan September 7, 1929

Education:

1950	B.S. Michigan State University, East Lansing, Michigan
1954	M.D. University of Michigan, Ann Arbor, Michigan

Appointments:

1954-55	Internship, St. Anthony, Denver, Colorado
1955-56	General Practitioner, Burns Clinic, Petoskey, Michigan
1956-58	General Medical Officer, Capt., U.S. Air Force
1958-61	General Medical Officer, Capt., U.S.A.F. Reserve
1958-62	Residency, Gynecology and Obstetrics, University of Kansas Medical Center
1962-64	Instructor, Gynecology and Obstetrics, University of Kansas Medical Center
1964-66	Assistant Professor, Gynecology and Obstetrics, University of Kansas Medical Center
1967-70	Assistant Dean, Medical School, University of Kansas Medical Center
1967-73	Associate Professor, Gynecology and Obstetrics, University of Kansas Medical Center
1973-	Professor, Gynecology and Obstetrics, University of Kansas Medical Center
1973-80	Director, Section of Gynecology, University of Kansas Medical Center
1973-	Vice-Chairman, Gynecology and Obstetrics, University of Kansas Medical Center

THE UNIVERSITY OF KANSAS

College of Health Sciences
Bell Memorial Hospital
Kansas City, Kansas 66103

Department of Gynecology
and Obstetrics

William J. Cameron, M.D.
Professor

Kansas University Gynecological
and Obstetrical Foundation

March 27, 1989

My testimony today, I hope, will be brief and concise. It will be strictly confined to the medical issues relating to Senate Bill #91, requiring parental consent or judicial authorization for minors seeking an abortion. First, my credentials: My job experience is listed on the appended sheet. I have been in the Department of Obstetrics and Gynecology at the University of Kansas Medical Center for more than 30 years, during which time I have been actively engaged in the practice of my specialty, as well as in teaching our young people who are medical students and residents in Obstetrics and Gynecology. Because of the generation in which I have grown up in medicine, a little more than half of my life was spent during the time when an abortion was strictly an illegal, in fact criminal procedure. The last half of my professional life has been spent when the law regarding abortion in the state of Kansas has been very permissive. The changes that this has made in training of young doctors, as well as our style of practice have been incredible.

I would like to summarize my testimony in outline form and embellish somewhat in the narrative. I do not intend to reproduce any kind of a "fact sheet" giving data regarding abortions as this material is available from a number of good sources.

1) We knew in the 60's and early 70's who the abortionists in Kansas City were. Referrals for reputable physicians to those doctors constituted a large part of their practice. It was never a problem for the affluent to find an abortion done fairly safely under clean conditions in our city.

Those who could not afford first class care were the vulnerable prey of the so called "back alley" abortionists. This term is not as fictitious as one might think. When I was in training it was not unusual to finish the abortions on 6 or 8 women on a single Saturday night that had been started by the cheap abortionists.

2) Autoabortion was very common, using a whole variety of terrible methods. We knew that there were pharmacies in Kansas City, particularly in the very poor sections of town which openly sold slippery elm sticks with directions on how to use them for a self-induced abortion.

3) As result of the above, patients admitted in shock following an abortion were not uncommon. We even had a special category of diagnosis, that of "septic abortion". These patients had a deep seated uterine infection, which

seeded their bodies with toxin resulting in shock. It is impossible to overestimate the effect that one or two dreadfully ill, young women would have on the entire gynecologic resourses of a major teaching university. It is a credit to the miracles of medicine that almost all of these women left the hospital alive, although most of them were irrevocably sterile.

4) It is impossible also to calculate the enormous economic consequenses that one or two of these critically ill people would effect on the entire hospital. By and large, indigent, the huge amounts of resources and professional time that went toward salvaging one life was virtually incalculable.

5) If we switch to today's situation, it's like turning the page of another book. The old septic wards are gone. We no longer have infected abortions in our emergency room. I have not seen a patient in septic shock because of septic abortion in more than a decade. The major complications following that procedure just no longer exist. Legal abortion has allowed virtually all of our patients to obtain an abortion economically and safely.

6) The major complication rate from abortion reported by the CDC is less than 1%. Despite the enormous strides we have made in combating maternal mortality, it still is 7 times more dangerous to have a baby than it is to have an abortion.

7) The safety of the procedure decreases somewhat as gestation increases. Hence, anything that imposes a time consuming block between the patient and her physician increases her danger in proportion to the delay in obtaining her abortion.

8) Much has been made of the mental aspects of abortion and it's psychic sequela. These arguments I think are irrelevent in terms of Senate Bill #91. Even assuming that there is such a thing as a mental post abortion syndrome, one would then have to assume that receiving parental or judicial consent or authority for the abortion would automatically somehow dissipate that syndrome.

9) Personal interviews with the first thousand teenagers who entered our facilities for abortion were centered around my personal interest in two areas, contraception (before and after the fact), and their mental state following the procedure. We simply did not see psychic trauma.

10) There are some medical problems that would occur with implementation of this bill. Some may not have been considered. A) Proof of age. Who is responsible? Is the doctor now required to verify the age of all of his patients? B) Identification of parents. Must they prove it? C) What is the penalty for violation. D) Immediately there will be underground facilities, which spring up catering to this specific population - minor girls. E) Girls

who don't want to tell their parents. Girls who have no parents to tell. F) I can foresee widespread physician noncompliance. One of the most significant things that has happened on the abortion front is that physicians sympathetic with the pro-choice stance now know how to do safe abortions. It's part of their training. It's been part of their practice. There are many physicians in that position who believe so strongly in what they do that they would be willing to accept the consequences. The economic deprivation to society could be enormous.

11. More than half of those women who are deprived of a safe legal abortion will opt for a risky illegal abortion if that is their only recourse.

12. We must, as a society, do something about the teen pregnancy rate. This bill is a step backward.

I thank you for your time and invite any questions you might have.

William J. Cameron, M.D.
Professor
Department of Gynecology
and Obstetrics

WJC/jv

Testimony Before the Committee on Federal and State Affairs
Opposition to Senate Bill No. 91
March 28, 1989

Margo Smith
Director of Counseling
4401 West 109th Street
Overland Park, KS 66211

My name is Margo Smith. I have a Master's Degree in counseling and fourteen years' experience counseling women in the first and second trimester of pregnancy, about their problem pregnancies. I am also responsible for the training and on-going education of all counseling staff members.

The counseling sessions, which are mandatory at our clinic, are appromimately one to one and a half hours long and cover five very important topics: (1) an explanation of the abortion procedure, (2) follow-up care, (3) an explanation of the consent form and possible risks, (4) future birth control, and (5) the patient's decision to have an abortion and alternatives to abortion.

The procedure is explained in great detail so that the patient understands what will be taking place and approximately how it will feel. Patients are shown the instruments that are used and pictures of the reproductive organs to help facilitate an understanding of the procedure. Patients are given written instructions and watch a film on post-procedural aftercare, and the counselor reviews these instructions with them before they are dismissed from recovery. The counselor reads aloud the consent form and then explains in layperson language what those risks are and what consequences might occur as a result. The counselor also discusses various methods of birth control with the patient and helps her select a future method she would feel comfortable using. If the patient selects birth control pills, she watches a film that explains how pills work to prevent pregnancy, how to take pills properly, and what risks and side effects may occur.

By far the major emphasis in the counseling session is placed on the patient's decision to terminate the pregnancy. The counselor never just assumes that the

patient wants an abortion because she has made an appointment. She always explores with the patient her reasons for not wanting to continue the pregnancy, and her reasons for rejecting adoption or parenthood. If a patient expresses any doubts about the decision, she is given adoption, OB care, and counseling referrals and is told she will have to reschedule when she has had more time to explore her feelings and her alternatives. The counselor is also very concerned about the patient's emotional well-being after the procedure, so she explores with the patient what support she has from her partner, family and friends. Most important is the patient's statement to the counselor that abortion is her choice. If she tells the counselor that she is opposed to abortion, but she is being pushed into terminating the pregnancy by her partner, family or friends, the counselor then explains to her that it is our policy not to perform the abortion. She is then given information on counseling referrals, adoption, and OB care.

Patients who are feeling sadness, guilt, anger, or any emotional pain surrounding the decision to have an abortion are encouraged to get follow-up counseling and to rely on people who have been supportive and comforting prior to that time. Their feelings about the abortion are assessed prior to the abortion, afterwards in recovery, and again at their two-week check-up. All patients are told to contact our clinic if they have any questions or concerns about their health or what they are feeling.

Teenaged patients are also required to tell the counselor whether or not their parents have been informed of their pregnancy and the decision to have an abortion. The large majority of teen patients have told their parents and, in most instances, those parents become very supportive. Counselors encourage teens to tell their parents; but parental knowledge of a teen's pregnancy does not always have a positive outcome, so teens are not required to tell their parents.

Patients who have not told their parents give a variety of reasons for not letting their parents know. Most teens are concerned that their parents will be disappointed in them, and would be embarrassed or ashamed to let their parents know. Some teens are victims of rape or incest and do not want to tell

their parents because they are convinced their parents will not be supportive, especially if another family member is involved in the pregnancy. Many teens have told me that their parents have threatened them with all kinds of possible punishments if they have sex and get pregnant. Parents often tell teen daughters they will put them in "corrective institutions," disown them, beat them, throw them out of the house, prevent them from seeing their boyfriend or friends, or press charges of statutory rape against the boyfriend. Some parents carry out such threats and others are merely attempting to scare their teenaged sons and daughters enough to prevent them from having sex. Regardless of the parents' intent, teenagers believe these threats, and the outcome of such fears is that they often delay dealing with the pregnancy until they have reached the second or third trimester.

Many patients are convinced that their parents, if they know they were pregnant, would try to prevent them from having an abortion, and, in some cases, parents do try to prevent the abortion. I am reminded, in particular, of one teenaged patient I talked to some months ago. She had come from Iowa and had been dropped off at our clinic by a friend; as a result, she had no transportation to her motel. I was particularly concerned about her staying in Kansas City overnight by herself and asked why her parents weren't with her or helping her. She stated that her mother, who was taking care of her eighteen-month-old son, was totally opposed to abortion and regularly picketed abortion clinics in the Iowa area. I told her that it sounded as though her mother would at least be supportive and help her raise another child if she chose to continue this pregnancy. At that point, she started crying and told me that she was pregnant by her stepfather, her mother's current husband, who was currently serving time in jail because he had sexually and physically abused her. She said her mother knew of the abuse; however, she did not know of the pregnancy but would still oppose the abortion even if she knew.

I am here testifying in opposition to Senate Bill No. 91 on behalf of this teenaged woman and others like her who would be ill-served by forcing parental consent for abortion.

TESTIMONY

before the

COMMITTEE ON FEDERAL & STATE AFFAIRS
KANSAS HOUSE OF REPRESENTATIVES
STATE CAPITOL
TOPEKA, KANSAS

March 28, 1989

Angie Roe

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 8
3/28/89

The name I use today is Angie Roe. This is my own story but I believe it is illustrative of two important points: (1) young women usually have good reasons for choosing not to tell their parents about their pregnancies; and (2) they will go to great lengths to protect their desire for that privacy when local laws limit their access to safe, legal and confidential abortion.

I got pregnant at the age of fifteen in 1971, as a result of a summer romance with a boy visiting from Iowa. I was basically a good kid: an honor student, that fall quarter I was elected vice-president of my sophomore class. Soon after, I turned sixteen and got a job in a library. My goal was to become a librarian.

I began having morning sickness and gaining weight. I didn't want to think I was pregnant. I just couldn't be! I used the rhythm method which I had read about in a book. It was the only form of birth control available to me and it had worked--up until now.

I talked with a woman who was a pregnancy referral counselor. She outlined my options, including abortion and adoption. My abortion choices were pretty limited. There was an injunction against abortions being performed in Kansas at that time. My only other choices were to fly to New York or Seattle, Washington. The cheapest alternative I had was to go to Seattle. The total cost would be $235, a huge sum of money for a teenager making $1.25 per hour.

I didn't know what to do. I was terrified. I started to tell my mom several times, but she always looked so tired when she came home from work. I started going to church with some fundamentalist friends who told me abortion was wrong. I prayed a lot about my decision. I was in agony trying to decide what to do.

By Thanksgiving I was 12 weeks pregnant. During our family celebration, I looked around at all my relatives: my elderly great-aunt, my Grandpa, etc. and throught of the shame my pregnancy would bring. I looked at my parents and thought of my only sister, killed two years before in a car accident which left my only brother brain damaged. I was their only "normal" kid left. I had to go on to college and do all the right things. I decided right then and there that I could not have an illegitimate baby.

I had to scramble to try and raise the $235 needed for the procedure and plane fare. I worked with a group of people concerned about women's health issues. They pawned a ring for me and made all the necessary arrangements. A boy who was a good friend of mine loaned me $100 he had saved from his paper route. (He got his father's permission before doing so.) I had saved part of my small salary and the group loaned me the difference.

The day of my flight to Seattle, I told my folks I was staying overnight at a girlfriend's. A woman from the group called my high school to say I was sick. Then they drove me to the airport and put me on a flight with an older woman: a 20-year-old college student who also needed an abortion. We were taken everywhere by people of a Seattle branch of the women's health group.

At the clinic, I was so scared, but the nurses wore colorful uniforms and explained everything that would occur. The rooms were clean and bright with travel posters on the ceiling, for the patients to look up at. The procedure itself hurt more than I expected, but was over fairly quickly. I rested for an hour or so, before the doctor came in to talk to me. He gave me some birth control pills and instructions on how to use them. I most certainly planned to!

We arrived back home after midnight. I rested at a group member's house and was taken home in the morning. As I got on the school bus that day, I felt that everyone must see the difference in me! I mean, I had just had an abortion and had flown 2000 miles and back. Yet it was business as usual as I went to classes that day.

House Federal and State Affairs Committee; March 28, 1989
Testimony on Senate Bill 91

Representative Barr, members of the committee, conferees, and guests. My name is Pat Goodson. I am legislative consultant for Right To Life of Kansas and am speaking in that capacity for our organization.

I appreciate the opportunity to speak against senate bill 91. I am not speaking today against parental rights. I am not speaking against parental involvement in the decisions of a minor child, or any of those other wonderful things proponents claim will happen as a result of passing senate bill 91 I intend to address the language of the bill. As I sat here yesterday and listened to the testimony of proponents, I kept wondering whether any of them could read, and what their testimony had to do with the bill which is under your consideration.

The moving testimony of the young lady and her precious baby were witness to the effectiveness and necessity of prolife sidewalk counseling, but had nothing to do with the bill. Apparently she was trying to say that there is a need for communication in families. but again that has nothing to do with the issue before us. An article in the official diocesean paper for southwest Kansas states that senate bill 91, "requires parent child communication." The article also states unequivocally, that sb 91 requires minors to have parental consent before an abortion can be performed. It is misinformation such as this that has led to such a vast amount of confusion regarding senate bill 91. There is no mention of parent child communication in the bill. The preamble mentions fostering the family structure but this was stricken by the senate. In any case the preamble has no force of law and is for the most part simply rhetoric.

If the article meant to imply that such communication would be the result of provisions of the bill then that also is false. Not only will the bill not increase parent child communication. The exact opposite is most likely to occur. The concerns expressed by Representative Ensminger yesterday concerning the judicial bypass section even as it appears in the unamended version of the bill is absolutely on target. As his questions and the conferees responses indicated and as a parent who has raised 11 teenagers can vouch for; the kids will know where and how to get an abortion. It will be very clear to any girl in trouble that the law gives her the right to seek an abortion without her parents consent, and will even assist her in doing so. If any of you have any delusions to the contrary, I can only say that you

are living in a dream world that has no basis in reality. How will such a situation foster parent child communication? The only children who will tell their parents under these circumstances are those who would do so otherwise.

In fact circumvention of parents is the very purpose of the judicial bypass. Once the girl is in the hands of the court the parents are precluded from participation. It is the court's duty to ensure the confidentiality of the minor. The bypass provision is required as a result of court rulings in particular, Belotti vs Baird that require that minors be allowed to exercise their court created right to an abortion.

I have for committee copies of an article from the Washburn Law Journal entitled "Permissible Requirements of Parental Consent for Abortion." The author appears to believe that a judicial bypass procedure is needed in Kansas statutes in order for an immature minor to effectively exercise her constitutional right to an abortion. (quote). Why would prolifers want to enact provisions that ensure a minor's right to abortion? If we are prolife and want to save lives this bill is not the way to do it.

Are minors getting abortions in Kansas now without parental consent. Yes, probably. But this is not because there is no parental consent law. It is because parents either approve, or do not know about their daughter's pregnancy, and because abortion is a lucrative business and abortionists are willing to take the risk of a lawsuit to perform an abortion without parental consent. Let me emphasize here again the bill does not require parental consent if a minor does not wish to seek parental consent. The only practical effect then regarding parental consent would be to specifically authorize by statute the right of parents to give consent to an abortion, since the right to refuse consent is effectively blunted by the section which provides that the minor only seek parental consent if she chooses to do so. It is therefore flawed in principle. It is not a step forward, but a giant leap backward for the prolife cause in Kansas. It is also a step backward for two important practical considerations as well.

Parents who presently are able to learn about their daughter's abortion will be able to use not only their powers of persuasion to save the life of their grandchild and prevent their daughter from making a tragic mistake, they have the option as a last resort of going to court and attempting to prove that their daughter is not mature enough to make the decision on her own or that the abortion is not in her best

interests. We have been involved in such a case and after two days of hearings the judge refused to permit the minor to have the abortion without the consent of one of her parents. I had the happy privilege of going with that mother to the hospital for the birth of her first grandchild. If senate bill 91 is passed even if the mother found out about her daughter's pregnancy her daughter would be able to go to the court and the court procedings would be closed to the parent. This is a point that noone has considered. This so called parental rights bill would set up a procedure whereby the minor would have the right to petition the court to obtain an abortion but if their daughter choosesto exercise that option the right and ability of parents to access to the court to prevent the abortion, a right they have now would be effectively closed.

In regard to funding;. Presently, we have a policy in Kansas of not paying for abortions. This is only a policy statement of SRS, an administrative decision to follow the federal guideline. It is not a reg and could be changed with a stroke of the pen, or a judges order. There are currently some twenty or more states who do fund abortions with non-federal money. I, am not willing to take the risk that abortions would be paid for by the state if this bill passes. There are no federal funds available for abortion payments but funds state general funds could be used.

I will conclude with the observation that this bill is a "trojan horse". With it ride provisions that would accomplish long held goals of Planned Parenthood and at least segments of the health and welfare bureaucracy, despite their objections. and public opposition to the bill.
The amendments riding on this bill also represent the acquiesence of supporters who despite their statements to the contrary to this committee yesterday made no attempt to keep the amendments off or take them off in the senate.

Respectfully submitted

Pat Goodson

l.op its own regula-

-ivel B. Mason

Constitutional Law: Permissible Requirements of Parental Consent for Abortion

The landmark decisions of *Roe v. Wade*[1] and *Doe v. Bolton*[2] placed the right to obtain an abortion within the constitutionally guaranteed right to privacy.[3] But, this right was conditioned[4] on the possibility an important state interest could justify its regulation.[5] Some parameters of constitutionally permissible regulation of a minor's right to abortion are enunciated in *Bellotti v. Baird*, — U.S. —, 99 S. Ct. 3035 (1979). The Court holds a state may require parental consent as a condition to abortion for an unmarried pregnant minor so long as the state provides alternative judicial authorization for the abortion. The minor must be afforded the opportunity to show she is mature and therefore capable of rendering consent without parental consent or that it is in her best interest to have an abortion. In either case, the proceedings must assure the controversy will be expedited and the minor will maintain anonymity, even as to her parents.[6]

Historically, the scope of the state's authority over the activities of children is broader than its authority over adults. Only certain specific rights have been expressly granted to minors.[7]

---

1. 410 U.S. 113 (1973). In *Roe*, the constitutionality of Texas laws prohibiting abortion except when necessary to save the life of the mother was challenged. The Court traced the history of abortion, examined the state's purposes and interests underlying criminal abortion laws and found a right of personal privacy implied under the Constitution "[b]road enough to encompass a woman's decision whether or not to terminate her pregenancy." *Id.* at 153.

2. 410 U.S. 179 (1973).

3. Doe v. Bolton, 410 U.S. 179, 189 (1973); Roe v. Wade, 410 U.S. 113, 153, 164 (1973). *See* Comment, *Constitutional Law: Elimination of Spousal and Parental Consent Requirements for Abortion*, 16 WASHBURN L.J. 462, 462-63 n.3 (1977) (quoting Georgius, *Roe v. Wade: What Rights the Biological Father?*, 1 HASTINGS CONST. L.Q. 251 & nn. 2-8 (1974)).

> Privacy is deemed to be a right which emanates from and is peripheral to those expressly preserved by the Bill of Rights and an element essential to their full exercise, accordingly, protections for express rights, including Fourteenth Amendment prohibitions against State action, extend to a guarantee of privacy in the exercise of those rights. The Court remains divided in its opinion of what constitutes the specific source of this fundamental right. It may be derived from the intent and purposes of the Constitution and its Bill of Rights as "implicit in the concept of ordered liberty," as included within the "penumbras" of the first eight Amendments, as preserved to individuals by the Ninth Amendment, or as protected against undue State restriction by the Fourteenth Amendment."

Id.

4. It is important to note the right to privacy recognized in the abortion decisions is not absolute. A "compelling State interest" may limit certain "fundamental rights"; the right to privacy must be balanced with the state's interests in the health of the woman and potential life of the fetus. 410 U.S. at 154, 155, 156, 159. Moreover, the pregnant woman's privacy right only permits her to make the initial decision an abortion is desired. The physician bears the primary responsibility for the ultimate decision and its effectuation, *id.* at 164, and must apply his or her medical judgment to decide if the pregnancy is to be ended, *id.* at 163.

5. In *Roe* and *Doe*, the Court found the applicable state interests to be the health of the mother and the potential life of the fetus. The state may promote its interest in the potential human life when the fetus become "viable." 410 U.S. at 159-62, 164. The interest in the mother's health reaches a "compelling" stage at the end of the first trimester. *Id.* at 163, 164. "[F]or the period of pregnancy prior to this 'compelling point,' the attending physician, in consultation with his patient, is free to determine, without regulation by the State, that, in his medical judgment the patient's pregenancy should be teriminated." *Id.* at 163.

6. — U.S. at —, 99 S. Ct. at 3048-49.

7. The law does not regard children as equals of their elders. But "whatever may be their

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 9A
3/28/89

In *Planned Parenthood v. Danforth*,[8] the Supreme Court struck a statute which required an unmarried minor to obtain parental consent for an abortion.[9] The Court indicated a significant state interest could limit the effectiveness of a minor's consent for termination of her pregnancy.[10] Nevertheless, the Court held, "[T]he State does not have the constitutional authority to give a third party an absolute, and possibly arbitrary, veto over the decision of the physician and his patient to terminate the patient's pregnancy, regardless of

---

precise impact, neither the Fourteenth Amendment nor the Bill of Rights is for adults alone." *In re* Gault, 387 U.S. 1, 13 (1967).

Cases involving a child's constitutional rights have arisen primarily within juvenile court and school contexts. Within the juvenile system, the current notion is a child is entitled "not to liberty, but to custody." *Id.* at 17. If the child's right is merely custodial, it still is often virtually coextensive with an adult's rights. Children have been granted procedural rights. *In re* Gault, 387 U.S. 1 (1967) (rights to notice, counsel, confrontation, cross examination and against self-incrimination protected). *But cf.* McKeiver v. Pennsylvania, 403 U.S. 528 (1971) (state need not provide juveniles jury trial); Kent v. United States, 383 U.S. 541 (1966) (juvenile delinquency hearings need not always conform with all criminal trial requirements). Additionally, children have been given some substantive rights. Swisher v. Brady, 438 U.S. 204 (1978) (prohibition of double jeopardy); Breed v. Jones, 421 U.S. 519 (1975) (prohibition of double jeopardy). *In re* Winship, 397 U.S. 358 (1970) (guilt standard of proof beyond a reasonable doubt).

In the school context, minors have been afforded similar constitutional rights. They must be provided procedural due process before they can be suspended from school. Goss v. Lopez, 419 U.S. 565 (1975). *Accord*, Carey v. Piphus, 435 U.S. 247 (1978). They also have substantive rights. Ingraham v. Wright, 430 U.S. 651 (1977) (corporal punishment of school children implicates constitutionally protected liberty interest). Tinker v. Des Moines School Dist., 393 U.S. 503 (1969) (children entitled to constitutional protection of freedom of speech); Brown v. Board of Educ., 347 U.S. 483 (1954) (school children entitled to equal protection against racial discrimination).

However, minor's rights are often tempered by parental or family rights. Parental discretion to direct the child's education and religious upbringing is protected from unwarranted state interference. Freedom of personal choice in matters of family life is one of the liberties protected by the due process clause of the fourteenth amendment. Protection of that freedom could be a "compelling interest." *See* Smith v. Organization of Foster Families, 431 U.S. 816 (1977); Roe v. Wade, 410 U.S. 113 (1973); Wisconsin v. Yoder, 406 U.S. 204 (1972); Pierce v. Society of Sisters, 268 U.S. 510 (1925); Meyer v. Nebraska, 262 U.S. 390 (1923). *But cf.* Quilloin v. Wallcott, 434 U.S. 246 (1978) (statute requiring only consent of illegitimate child's mother for adoption does not offend father's due process right to freedom of choice in matters of family life); Rowan v. Post Office Dep't, 397 U.S. 728 (1970) (Brennan, J., concurring) (parent's right does not always restrict independent interest of children); Ginsberg v. New York, 390 U.S. 629 (1968) (family itself not beyond regulation in public interest); Prince v. Massachusetts, 321 U.S. 158 (1944) (state as *parens patriae* may restrict parent's control).

8. 428 U.S. 52 (1976).

9. *Id.* at 72-75. In both *Roe* and *Doe*, the Court expressly declined to comment on the constitutionality of parental consent requirements. In cases prior to *Danforth*, courts had determined requiring parental consent was unconstitutional by applying the *Roe* and *Doe* rationale. *See* Annot., 42 A.L.R.3d 1406 (1972) for cases subsequent to and prior to *Danforth*.

10. Planned Parenthood v. Danforth, 428 U.S. at 73, 75. *Yoder, Ginsberg, Prince, Pierce* and *Meyer* involved conflicts between parent and state. In the abortion context, a court is faced with a possibly distinguishable situation in that there is only a potential conflict. At least one court has recognized this distinction. Planned Parenthood Ass'n v. Fitzpatrick, 401 F. Supp. 554, 567 (E.D. Pa. 1975).

After *Danforth*, it is relatively clear the right to privacy extends to minors. However, Justice Brennan, in Carey v. Population Serv., Int'l, 431 U.S. 678 (1977) (*citing Danforth*), admitted the validity of restrictions on a minor's privacy rights were measured by a test "less rigorous than the 'compelling state interest' test applied to restrictions on the privacy right of adults." *Id.* at 693 n.15.

In Poe v. Gerstein, 517 F.2d 787 (5th Cir. 1975), the Fifth Circuit delineated four areas wherein there could be sufficient state interest to warrant requiring parental consent. It found these interests insufficient to condition a minor's consent by an absolute parental veto. It listed the interests as preventing illicit sex among minors, protecting minors from their own improvidence, fostering parental control and supporting the family as a social unit. *Id.* at 792. *See* Note, *Constitutional Law—Abortion—Parental and Spousal Consent Requirements Violate Right to Privacy in Abortion Decision*, 24 KAN. L. REV. 446, 450-55 (1976). These areas are now definitively established. *See* notes 32-34 *infra*.

the reason for withholding the consent."[11]

Moreover, the Court in *Danforth* curtailed the traditional limit on a minor's consent to medical services,[12] the common-law requirement for parental consent.[13] The Court adopted the "mature minor rule," allowing a minor to effectively consent to an abortion if she was mature and competent enough to understand the consequences and import of her decision.[14]

In *Bellotti v. Baird*,[15] plaintiffs[16] brought a class action seeking to enjoin enforcement of parts of a Massachusetts statute[17] which required every unmarried woman under eighteen to obtain the consent of both her parents before receiving an abortion. The statute also provided if one or both parents refuse such consent, consent may be obtained by court order.[18] The Massachusetts district court found the statute unconstitutional.[19]

---

11. Planned Parenthood v. Danforth, 428 U.S. at 74.

12. *Id.* at 73-74. *See* McNamara, *The Minor's Right to Abortion and the Requirement of Parental Consent*, 60 VA. L. REV. 305 (1974) (outlining common-law requirement of parental consent to medical services and exceptions from general rule carved by statutes and courts). *See also* Comment, *Constitutional Law: Elimination of Spousal and Parental Consent Requirements for Abortion*, 16 WASHBURN L.J. 462, 465-66 (1977).

13. The parental consent requirement is dervied from the common law of torts as well as the nature of the parent-child relationship. Any nonconsensual touching is a technical battery. Unless the physician first obtains parental consent, any medical treatment will expose the doctor to civil liability. Younts v. St. Francis Hosp. & School of Nursing, 205 Kan. 292, 469 P.2d 330 (1970). McNamara, *supra* note 12, at 309. There are exceptions to this common-law doctrine emergency, emancipation and the mature minor rule. *Id.* at 309-11. Whether a minor is mature depends upon his or her ability "to understand and comprehend the nature of the surgical procedure, the risks involved and the probability of attaining the desired results in the light of the circumstances which attend." Younts v. St. Francis Hosp. & School of Nursing, 205 Kan. at 300, 469 P.2d at 337.

14. 428 U.S. at 73-74.

15. Baird v. Bellotti, 393 F. Supp. 847 (D. Mass. 1975), *vacated*, 428 U.S. 132 (1976).

16. The named plaintiffs included: Parents Aid Society, Inc.; William Baird, president of Parents Aid Society, Inc. and director and chief counselor at its Massachusetts center which provides abortion and counseling services; Mary Moe I, the representative minor, under 18, pregnant at the time of filing the suit and desiring an abortion without informing her parents; and Gerald Zupnick, M.D., claiming to represent all physicians in Massachusetts who, without patients' parental consent, see minor patients seeking abortions. The named defendants were the Attorney General of Massachusetts and district attorneys of all counties in the Commonwealth. Jane Hunerwadel, representing Massachusetts parents of unmarried minor females of childbearing age, intervened. 428 U.S. at 132, 137-38.

17. MASS. GEN. LAWS ANN. ch. 112, § 12S (West 1979). In pertinent part the statute provides,

> If the mother is less than eighteen years of age and has not married, the consent of both the mother and her parents is required. If one or both of the mother's parents refuse such consent, consent may be obtained by order of a judge of the superior court for good cause shown, after such hearing as he deems necessary. Such a hearing will not require the appointment of a guardian for the mother. If one of the parents has died or has deserted his or her family, consent by the remaining parent is sufficient. If both parents have died or have deserted their family, consent of the mother's guardian or other person having duties similar to a guardian, or any person who had assumed the care and custody of the mother is sufficient. The commissioner of public health shall prescribe a written form for such consent. Such form shall be signed by the proper person or persons and given to the physician performing the abortion who shall maintain it in his permanent files.

Id.

18. *Id.*

19. Baird v. Bellotti, 393 F. Supp. at 857. The district court found the Massachusetts statute's purpose was to encumber the rights of all minors coming within its terms. *Id.* at 855. The court concluded the encumbrance of parental consent was impermissible. It noted while parents may have rights vis-a-vis their child of a constitutional dimension, the individual rights of the minor outweigh those of the parents in the abortion decision. *Id.* at 857.

The case first rose to the Supreme Court to be argued and decided with *Danforth*.[20] The Court vacated and remanded to the district court, indicating the district court should have abstained because it found the unconstrued statute susceptible to a construction by the state judiciary which might have avoided federal constitutional adjudication or materially changed the nature of the problem.[21]

On remand, the district court certified nine questions to the Massachusetts Supreme Court.[22] The supreme court construed the statute to require parental consent and notification in nearly all cases[23] and found the statute's alternative to parental consent rejected the "mature minor rule."[24] Using this construction, the district court again held the statute unconstitutional in creating an impermissible third-party veto and enjoined its enforcement.[25]

On direct appeal, the Supreme Court faces the issue whether the Massachusetts abortion statute requiring notification and consent of both parents or, if parental consent is not obtained, judicial determination of the efficacy of the minor's decision by measuring it against its assessment of her "best interest,"[26] is constitutional. In an eight-to-one decision, the Court holds the statute unconstitutional.[27]

---

20. 428 U.S. 132 (1976). Argued with *Danforth*, March 23, 1976; decided on July 1, 1976.

21. 428 U.S. at 146, 147. Although the Court did not decide the constitutional issue, it gave some guidance, suggesting a statute that prefers parental consultation and consent, but permits a mature minor, without undue burden, to obtain an order permitting abortion and an immature minor to obtain such an order when it is in her best interests, would be constitutional. *Id.* at 145. The Court cautioned against creating an absolute third-party veto. *Id.* at 145, 147-48.

22. Baird v. Bellotti, 428 F. Supp. 854 (D. Mass. 1977). Pertinent questions certified by the District Court are as follows:

> 3. Does the Massachusetts law permit a minor (a) 'capable of giving informed consent,' or (b) 'incapable of giving informed consent,' 'to obtain [a court] order without parental consultation?
>
> 4. If the Court answers any of question 3 in the affirmative, may the superior court, for good cause shown, enter an order authorizing an abortion, (a), without prior notification to the parents, and (b), without subsequent notification?
>
> 5. Will the Supreme Judicial Court prescribe a set of procedures to implement c. 112 [§ 12S] which will expedite the application, hearing, and decision phases of the superior court proceeding provided thereunder? Appeal?
>
> 9. Will the Court make any other comments about the statute which, in its opinion, might assist us in determining whether it infringes the United States Constitution?

Bellotti v. Baird, — U.S. at — n.9, 99 S. Ct. at 3041 n.9.

23. Baird v. Attorney Gen., 371 Mass. 741, 360 N.E.2d 288 (1977).

24. *Id.* at 752-55, 360 N.E.2d at 296-97.

25. Baird v. Bellotti, 450 F. Supp. 997 (D. Mass. 1978), *aff'd*, — U.S. —, 99 S. Ct. 3035 (1979). The statute was found unconstitutional because it required parental notification before a court could hear a minor's application for consent authorization. *Id.* at 1000-02. Moreover, the statute was held to violate due process and equal protection insofar as it allowed a judicial veto of the mature minor's consent. *Id.* at 1003, 1004. Finally, the court characterized the Massachusetts statute as excessively broad on its face by improperly suggesting the existence of parental rights. The court conluded this formal overbreadth would impermissibly chill the minor's sensitive right to make an abortion decision. *Id.* at 1004.

26. Certified to the Massachusetts Supreme Court was the question: "If the superior court finds that the minor is capable, and has, in fact, made and adhered to, an informed and reasonable decision to have an abortion, may the court refuse its consent on a finding that a parent's, or its own, contrary decision is a better one?" Baird v. Attorney General, 371 Mass. at 277 n.5, 360 N.E.2d at 293 n.5. The Massachusetts court answered in the affirmative, saying a judge may determine if the "best interests" of the minor will be served by an abortion. In the "best interest" test, the judge makes the final decision. *Id.* at 277, 360 N.E.2d at 293.

27. Bellotti v. Baird, — U.S. —, 99 S. Ct. 3035, 3052, 3053, 3055. The plurality is composed of Chief Justice Burger and Justices Stewart, Powell and Rehnquist. Rehnquist concurs to create

A majority says both the parental consent requirement and the "best interests" test create an impermissible third-party veto.[28] Eight Justices agree a state can not require an abortion to be in the "best interest" of a minor if the minor is mature, *i.e.*, capable of making and having made an informed and reasonable decision to have an abortion.[29] Such a requirement would allow a state the final abortion decision. This requirement was resolutely rejected in *Danforth* and is now followed in *Bellotti*.[30]

Similarly, the eight Justices make it clear a state may not absolutely require a mature minor to obtain parental consent to her abortion decision.[31] The plurality[32] continues, emphasizing there could be a special state interest in encouraging an unmarried pregnant minor to seek advice from her parents.[33] While a child is not beyond the protection of the Constitution, the plurality affirms that rights of children may not equal those of adults.[34] The plurality advances three reasons to justify this conclusion: the vulnerability of children;[35] a child's inability to make critical decisions in an informed, mature manner;[36] and the importance of the parental role in child-rearing.[37]

Notwithstanding the child's special position in our society, the plurality says the Massachusetts statute provides for parental notice and consent in a manner that unduly burdens the pregnant minor's right to seek an abortion.[38] Moreover, the mere requirement of parental notice constitutes such a burden.[39] "The need to preserve the constitutional right and the unique nature of the abortion decision, especially when made by a minor, require a State to act with particular sensitivity when it legislates to foster parental involvement in

---

a rule for future guidance. *Id.* at —, 99 S. Ct. at 3038, 3053. Justices Brennan, Marshall, Blackmun and Stevens also concur. *Id.* at —, 99 S. Ct. at 3053. Justice White dissents for the same reasons he dissented in *Danforth*. *Id.* at —, 99 S. Ct. at 3055.

28 *Id.* at —, S. Ct. at 3046, 3050-52, 3053-55.

29 *Id.* at —, 99 S. Ct. at 3048-49 (following *Danforth*). *See* note 13 *supra*.

30 — U.S. at —, 99 S. Ct. at 3051-52.

31 *Id.* at —, 99 S. Ct. at 3047-48, 3054.

32 *Id.* at —, S. Ct. at 3038, 3053. *See* note 27 *supra*.

33 *Id.* at —, 99 S. Ct. at 3050 (plurality).

34 *Id.* at —, S. Ct. at 3043-46, 3051 (plurality).

35 *Id.* at —, 99 S. Ct. at 3043-44 (plurality) (citing Ingraham v. Wright, 430 U.S. 651 (1977); Gross v. Lopez, 419 U.S. 565 (1975); McKeiver v. Pennsylvania, 403 U.S. 528 (1971); *In re* Winship, 397 U.S. 358 (1970); *In re* Gault, 387 U.S. 1 (1967); Kent v. United States, 383 U.S. 158 (1944)).

36 *Id.* at —, 99 S. Ct. at 3045-46 (plurality) (citing Ginsberg v. New York, 390 U.S. 629 (1968); Prince v. Massachusetts, 321 U.S. 158 (1944)).

37 *Id.* at —, 99 S. Ct. at 3046-47 (plurality) (citing Wisconsin v. Yoder, 406 U.S. 205 (1972); Ginsberg v. New York, 390 U.S. 629 (1968); Prince v. Massachusetts, 321 U.S. 158 (1944); Pierce v. Society of Sisters, 268 U.S. 510 (1925)).

38. *Id.* at —, 99 S. Ct. at 3049-50 (plurality). The plurality contends an abortion decision is unique. The minor's options are limited. It notes she may not postpone her decision. Unwelcome motherhood may be "exceptionally burdensome" for a minor, considering her probable lack of education, employment skills, financial resources and emotional maturity. Under these circumstances, "the unique nature and consequences of the abortion decision make it inappropriate 'to give a third party an absolute, and possibly arbitrary veto . . . .'" *Id.* at —, 99 S. Ct. at 3047-48 (plurality).

39 *Id.* at —, 99 S. Ct. 3049-50 (plurality). The plurality concludes requiring parental consultation would unduly burden the minor's right. It finds it is unrealistic to assume minors could then freely decide as they are "particularly vulnerable to their parents' efforts to obstruct both an abortion and their access to court." *Id.* at —, 99 S. Ct. 3050 (plurality). The Seventh Circuit in Wynn v. Carey, 582 F.2d 1375 (7th Cir. 1978), had recognized this problem and offered additional examples. Parents may physicially abuse the minor or force her into a marriage she does not want or to continue her pregnancy simply as punishment. *Id.* at 1388 n.24.

this manner."[40]

The plurality contends some fostering of parental involvement may be required and might be particularly desirable.[41] But if a state would require parental consent as a condition to a minor's obtaining an abortion, a minor must be allowed a proceeding to show either:

> (1) That she is mature enough and well enough informed to make her abortion decision, in consultation with her physician, independently of her parents' wishes; or
> (2) That even if she is not able to make this decision independently, the desired abortion would be in her best interests. The proceeding in which this showing is made must assure that a resolution of the issue, and any appeals that may follow will be completed with anonymity and sufficient expedition to provide an effective opportunity for an abortion to be obtained.[42]

The full extent of parental involvement under the plurality's view would be allowed only when a court concludes it is in the "best interest" of an immature minor to have parental consultation.[43]

Four concurring Justices[44] criticize the plurality for addressing "the constitutionality of an abortion statute that Massachusetts has not enacted."[45] They suggest the plurality's requirement of judicial proceedings is advisory.[46] Moreover, they contend this decision does not determine the constitutionality of requiring notice to parents without affording them an absolute veto.[47]

Mr. Justice White dissents, believing it "inconceivable" the Constitution forbids notice to parents.[48] He continues to disagree with the Court's holding in *Danforth*, contending parental consent may be validly required.[49] He reasons even if a parental consent requirement of the kind involved in *Danforth* must be deemed invalid, the Massachusetts statute does not create an absolute parental veto because it allows a judge to permit an abortion, if it is in the best interest of the minor,[50] even when the parents object.

At least one court has followed the plurality's "advice."[51] The United States District Court in Southern Florida held the Florida Legislature failed to draft a statute imposing constitutionally permissible prerequisites to perform an abortion on a minor.[52] The Florida statute had avoided some of the Massachusetts statute's defects. For example, the Florida law would have allowed the minor to go directly to court without first notifying her parents and al-

---

40. Bellotti v. Baird, — U.S. at —, 99 S. Ct. at 3047 (plurality).
41. *Id.* at —, 99 S. Ct. at 3046, 3050-51 (plurality).
42. *Id.* at —, 99 S. Ct. at 3048-50 (plurality).
43. *Id.* at —, 99 S. Ct. at 3051 (plurality).
44. Justices Brennan, Marshall, Blackmun and Stevens. *Id.* at —, 99 S. Ct. at 3053 (Stevens, J., concurring).
45. *Id.* at —, 99 S. Ct. at 3054-55 (Stevens, J., concurring).
46. *Id.* (Stevens, J., concurring).
47. *Id.* at —, 99 S. Ct. at 3053 n.1 (Stevens, J., concurring). The plurality responds it is giving judges the guidance needed to avoid future protracted litigation. Additionally, it argues the issues exist as a unanimous court found them in its first *Bellotti* decision. *Id.* at — n.32, 99 S. Ct. at 3052-53 n.32 (plurality).
48. *Id.* at —, 99 S. Ct. at 3055 (White, J., dissenting).
49. *Id.* (White, J., dissenting).
50. *Id.* (White, J., dissenting).
51. Jones v. Smith, 474 F. Supp. 1160 (S.D. Fla. 1979).
52. *Id.* at 1166.

lowed her to prove she was mature.[53] But the statute was deficient because, as the district court interpreted it, it would allow a judge to deny an abortion to a mature minor.[54] Furthermore, the statute did not provide the procedure envisioned by the plurality in *Bellotti*: the judicial proceedings would not assure expedition and anonymity in resolution of the issue.[55] Judicial discretion did not provide "sufficient expedition."[56]

The status of Kansas abortion law is unclear.[57] The Supreme Court's decision in *Bellotti* does not make that status any more certain. The Kansas abortion statute[58] does not require the unmarried minor to obtain parental consent. But Kansas common-law principles, as a general rule, require parental consent to authorize an operation on a minor.[59] Moreover, the statute concerning medical consent for an unmarried pregnant minor inferentially requires parental consent, when a parent is available.[60] The statute and common law are limited by the mature minor rule, accepted in Kansas prior to *Bellotti*.[61] However, the immature minor must still obtain parental consent and Kansas statutes do not provide for the alternative judicial proceedings envisioned in *Bellotti*. If the Kansas statute effectively requires parental consent, Kansas abortion law has another constitutional hurdle to clear.

The plurality in *Bellotti* provides only some of the parameters of constitutionally permissible regulation of a minor's right to an abortion. Seemingly, the mature minor's rights have been outlined. The decision leaves unresolved

---

53. 1979 Fla. Sess. Law Serv., ch. 79-302, § 1 at 1824 (codified at FLA. STAT. ANN. § 458.505(4)(a) (West 1979)) (ruled unconstitutional in Jones v. Smith, 474 F. Supp. 1160 (S.D. Fla. 1979)).

> If the pregnant woman is under 18 years of age and unmarried, in addition to her written request, the physician shall obtain the written informed consent of a parent, custodian, or legal guardian of such unmarried minor, or the physician may rely on an order of the Circuit Court, on the petition of the pregnant unmarried minor or another person on her behalf, authorizing, for good cause shown, such termination of pregnancy without the written consent of her parent, custodian, or legal guardian. The cause may be based on a showing that the minor is sufficiently mature to give an informed consent to the procedure, or based on the fact that a parent unreasonably withheld consent by her parent, custodian, or legal guardian, or based on the minor's fear of physical or emotional abuse if her parent, custodian, or legal guardian were requested to consent, or based upon other good cause shown. At its discretion the court may enter its order ex parte. The court shall determine the best interest of the minor and enter its order in accordance with such determination.

Id.

54. Jones v. Smith, 474 F. Supp. at 1166.

55. *Id.* at 1167.

56. *Id.* *See also* Bellotti v. Baird, — U.S. —, —, 99 S. Ct. 3035, 3054 (1979) (Stevens, J., concurring). The Court notes in the typical situation, judicial proceedings "would impose a burden at least as great as, and probably greater than, that imposed on the minor child by the need to obtain consent of a parent." *Id.* (Stevens, J., concurring). *Accord*, Wynn v. Carey, 582 F.2d 1375, 1389 (7th Cir. 1978).

57. *See* Note, *Constitutional Law—Abortion—Parental and Spousal Consent Requirements Violate Right to Privacy in Abortion Decision*, 24 KAN. L. REV. 446, 462 (1976) (discussing status of Kansas abortion law). The author said the Kansas abortion statute was "clearly defective" because Doe v. Bolton, 410 U.S. 179, 182 (1973), would invalidate the statute. *Id.* at 462. Part of the statute had previously been held unconstitutional. Poe v. Menghini, 339 F. Supp. 986 (D. Kan. 1972).

58. KAN. STAT. ANN. § 21-3407 (1974).

59. Younts v. St. Francis Hosp. & School of Nursing, 205 Kan. 292, 469 P.2d 330 (1970). *See also* notes 12-14 *supra*.

60. KAN. STAT. ANN. § 38-123 (1973).

61. Younts v. St. Francis Hosp. & School of Nursing, 205 Kan. at 300-01, 469 P.2d at 337-38.

the position of the immature minor with respect to a common-law requirement of parental consent. Must an alternative judicial authorization be provided?[62] However, the decision does make it clear a state may regulate the minor's right to abortion, although it may not create a third-party veto of a mature minor's abortion decision. And it can only legislate a presumption for parental consultation if it provides, as an alternative, avenues for anonymous and expedited judicial authorization.

Arthur S. Chalmers

62. Judicial discretion may not provide the guarantees of anonymity and expediency envisioned in *Bellotti*. *See* note 49 *supra*. However, *Bellotti* deals with a state statute, not common law. An immature minor must obtain parental consent to any medical operation under the common-law rule. Whether *Bellotti* will require affirmative judicial action to ensure expedition and anonymity in any method to judicially authorize an immature minor's consent to an abortion is an unanswered question. But, without a statute, how does the immature minor get to court?

TESTIMONY OF EDWARD KERN
BEFORE THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
CONCERNING SENATE BILL NO. 91

****

Madame Chairman, Ladies and Gentlemen of the committee:

Thank you for allowing me to speak to you today concerning Senate Bill 91. I come before you today as the father of two daughters, one of whom is about to enter her teenage years.

When S.B. 91 was introduced in the Senate Federal and State Affairs committee, Senator Roy Ehrlich sent me a copy. I read the bill, and found it to be basically the same parental consent bill one of the pro-life organizations had been promoting the last few years. I found that the intent of the bill was good. I do believe that parental consent should be required before non-emergency medical procedures are performed on minor children. It is my understanding that this is the present status of Kansas Law. Because abortion is a medical procedure, and most generally is performed under non-emergency conditions, it should fall under present law. It would, however, be naive to think or suggest that the letter of the law is currently being followed in all cases dealing with minors. We know this is just not the case.

S.B. 91 in its original form attempted to address this issue with the intent of mandating parental consent for abortions performed on minors. The judicial bypass provisions contained in the bill, however, totally negated a parents authority. At the taxpayers expense, a minor girl could appear before the court and request judicial consent to have an abortion. Her parents, who are responsible for monitoring and maintaining the girl's health, are totally excluded from the hearing, and would not at any time be told of the event. It was for this reason that I could not support the original bill. It was a bill that only sounded good.

When I heard S.B. 91 had passed the Kansas Senate, I requested a copy of the bill as amended. To say the least I was shocked to see what had been done to it. It is as if the abortionist's cruel knife had cut all semblance of parental rights from the bill, the same as he cuts life from the womb. Section 1 which dealt with the intent of the bill and the parents rights was gutted completely.

As surprised as I was by this, I was totally unprepared for the intrusion of the State into family affairs afforded, no, MANDATED, by New Sec. 3. Under the provisions of this section, if a school nurse or counselor asked a girl if she was pregnant, and the girl replied in the affirmative, the nurse or counselor would be REQUIRED BY LAW to tell the girl

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 10
3/28/89

she could request permission from the court to obtain an abortion. In addition, the nurse or counselor would be REQUIRED BY LAW to refer the girl to SRS for counseling and assistance in obtaining this judicial consent. No where along the line are the parents contacted or involved. No where are there provisions protecting the parents rights and duties of monitoring the child's welfare. And all this is done at the taxpayers expense.

It is agreed that the State has the right and responsibility to protect innocent children from wrong-thinking parents who would do harm to their offspring. However, the provisions set forth in New Sec. 3 of S.B. 91 constitute a serious and unwarranted encroachment into the family and the decisions made within that context. This bill as it presently exists is not a parental consent bill, but rather, a parental bypass bill.

It is for these reasons that I respectfully request that Senate Bill No. 91 be killed in committee.

Thank you once again for allowing me the opportunity to address you this afternoon.

LEAGUE OF WOMEN VOTERS OF KANSAS

919½ Kansas Avenue   Topeka, KS 66612   (913) 234-5152

March 28, 1989

STATEMENT TO THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS IN OPPOSITION TO SB 91.

~~Mr.~~ Madam Chairman and Members of the Committee:

I am Ann Hebberger, President of the League of Women Voters of Kansas, speaking in opposition to SB 91.

"The League of Women Voters believes that public policy in a pluralistic society must affirm the constitutional right of privacy of the individual to make reproductive choices." We therefore do not support SB 91, further stating that, in our opinion, this bill goes much further than previous anti-choice/anti-privacy bills.

Once again there is an attempt being made to erode a law that says such decisions are medical and not moral.

The protection of minors is already established in the philosophy of the Kansas Code for Care of Children, and in the Juvenile Code, saying that "Each child should receive, preferably in his/her own home, the care, custody, guidance, control and discipline which is to her/his own advantage, as well as to the advantage of the state." We are certain that this wording is adequate in describing what parents are supposed to do. We do not understand why the bill proposes changing jurisdiction from the juvenile division to the civil division because this bill deals with juveniles.

We want to believe that all families are loving and caring, and that a child receives all of the above in his or her home. Looking at abuse, incest, and runaway statistics, or the number of children in foster care and Kansas state institutions, is it really necessary that parents rights must override a child's right to equal protection under the law? We think that the legislatures concern should be to determine who provides for these children who are born and then not wanted.

The League would much prefer that instead of everyone being upset about pro-choice or pro-life, we all work on seeing that better sex education courses are provided in the school.

The other side argues that abortion is more traumatic to a teenager than having a baby. According to a report from Surgeon General C. Everett Koop, released January 9, 1989, "No conclusive evidence exists one way or the other on how abortions affect a woman's mental or physical health...(and) no scientific basis exists to draw any conclusions". He further states, "at this time, the available scientific evidence simply cannot support either the preconceived beliefs of those pro-life or of those pro-choice". Koop's report continues, saying, "the health effects of abortion on women are not easily separated from the hotly debated social issues that surround the practice of abortion".

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 11
3/28/89

Almost 250 studies are or have been conducted on the psychological effects of abortion, but the Surgeon General says, "all of the studies have flaws in methodology, and anecdotal reports about on both sides". Koop was reported to have told President Reagan that an effective study would cost at least $10 million a year for the next five years.

The complicated process set up in SB 91 obviously is designed to discourage a teenager from having an abortion. However, the continual chipping away at Roe vs Wade does not fool anyone. Rather than continue the argument, which in our opinion is purely political, wouldn't it be better to wait and see what the U.S. Supreme Court says about abortion? Whether we will agree or not is another matter, but at least there will be a legal opinion to base this kind of public policy on.

We strongly urge that you not pass SB 91 out of Committee as it is extremely oppressive. The League of Women Voters cannot believe that forward thinking legislators in Kansas support such proposed public policy.

Thank you.

S.B. #91

I'm Gordon Risk, president of the American Civil Liberties Union of Kansas. I am also a physician and psychiatrist. I am here to testify against S.B. #91.

During public hearings on this bill in the Senate, two women testified about the hardships they had endured as minors to carry their pregnancies to term. Their stories involved much personal bravery, as they survived numerous obstacles, perhaps principally parental opposition, to exercise their right of choice. The ACLU supports the right of a minor to decide whether or not to carry a pregnancy to term without parental consent. We also support a considered decision and as much consultation as seems useful, yet, this might not include consultation with the pregnant teenager's parents or parent, as the U.S.A. Supreme Court recognized when it mandated the judicial bypass procedure, an explicit recognition that informing the parents may not be in the minor teenager's best interest.

How useful is judicial review of the teenager's decision to abort? A parental notification law was in effect in Minnesota during the years 1981-85. None of the six Minnesota judges responsible for handling over 90% of the petitions filed under that law thought that they had performed a useful function or could identify a positive effect of the law. There was a sense among them that they had functioned merely as a "rubber stamp",[1] reflecting most probably deference to the teenager's right of choice. During that period, 3,573 bypass petitions were filed, six were withdrawn before the decision, nine were denied, and 3,558 were granted. "Anomalous circumstances surrounded several of the petitions which were denied."[2]

If informing the parents may produce harm and a judge makes no useful contribution, what will this law accomplish? The only fact that can be stated with certainty is that it will increase the morbidity and mortality rates among pregnant teenagers and increase the number of unwanted children. Teenagers, particularly young teenagers, have a two-and-a-half times greater risk of death from continued pregnancy or childbirth than adult women. The same is true for rates of morbidity related to childbirth when compared to abortion. For those who choose to abort, the law will produce delay, while the pregnant teenager decides whether to tell her parents and seek their consent or whether to attempt a judicial bypass. As the court noted in the Minnesota case, scheduling practices in Minnesota courts "typically require minors to wait two or three days between their first contact with the court and the hearing on their petitions. This delay may combine with other factors to result in a delay of a week or more. The bill before you will produce at least this much delay. "A delay of this magnitude increases the medical risk associated with the abortion procedure to a statistically significant degree. Even a shorter delay may push the minor into the second trimester, when the abortion procedure entails significantly greater costs, inconvenience and medical risks."[3] Statistics indicate that the parental notification law in Minnesota increased the percentage of minors who got second trimester abortions by 26.5%. While the parent notification law was in effect, approximately 25% of minors underwent second trimester abortions, a fact that an official from the Minnesota State Health Department agreed was a public health problem. The increase in second trimester for minors in Minnesota was contrary to the national pattern. Nationally, the stage of gestation at which teenage women obtain abortion has been stable in recent years.

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 12
3/28/89

A 1987 study by the National Research Council of the National Academy of Sciences summarizes what we know about parental notification statutes: "Although abortion for very young teenagers remains a special issue, there is no empirical evidence concerning the cognitive capacity of adolescents to make such decisions or the psychological consequences of abortion that would either support or refute such restrictions. On the basis of existing research, therefore, the contention that adolescents are unlikely or unable to make well-reasoned decisions or that they are especially vulnerable to serious psychological harm as a result of an abortion is not supported. On the contrary, research has shown that for most abortion patients, including adolescents, relief is a frequent reaction. Nor has research documented that legally required parental involvement helps teenage girls cope better with their choice to terminate the pregnancy. There is no evidence that it reduces the probability of subsequent unwanted pregnancies or serves any other purpose than to ensure that the parents are aware of what their adolescent daughters are doing. There is, however, growing evidence that parental statutes caused teenagers to delay their abortions, if for no other reason that they must undergo the de facto waiting period associated with finding a lawyer and gaining access to the courts. These delays may increase the health risks involved if they result in postponements until the second trimester of pregnancy. In addition, no research has been conducted to determine whether "maturity" (the legal standard for granting a judicial bypass to a minor adolescent seeking an abortion without parental consent) can be reliably and validly assessed. In the absence of clear legal standards for maturity, such assessments run the risk of being inconsistently interpreted and applied, as well as being inaccurate. Along with other legal scholars and professional psychologists who have considered this issue, the panel questions whether a "mature minor" standard can be effectively implemented.4

Since this bill deplores the current conditions under which women obtain abortions in the state, perhaps it would be well to examine them. In the absence of parental involvement laws, nearly all clinics inquire as to parental support and knowledge of the abortion decision and encourage minors to notify their parents. In addition, standard medical ethics require notification of the parents of minor patients in emergencies or life-threatening situations. It is standard medical practice for clinics to explain the abortion procedure and its attendant medical risks when taking a patient's medical history and physicians already have a legal responsibility to ensure not only that the patient has given knowledgeable and informed consent to any medical procedure, but also that the patient is capable of giving such consent. These standard medical practices exist nation-wide and predate the current campaign for parental consent statues.

A number of Kansas statutes recognize minors as responsible: KSA 59-2102 (a minor can consent to the adoption of her child); 38-125 (a minor parent can relinquish her child to SRS); 38-122 (a minor can consent to surgery for her child); 65-2892A (a minor can consent to examination and treatment for drug abuse); 59-2905 (a minor 14 or older may apply for admission to a treatment facility); 65-2892 (a minor may be examined and treated for a venereal disease); 38-123A (a minor 17 or older may donate blood); 38-601 (children 14 and older may hold jobs); 38-101 (minority is defined as 18, but 16 if married, for all matters involving contracts, property rights, liabilities and the capacity to sue and be sued). I would like in particular to focus on KSA 59-2102, a law recognizing the right of a minor to give up her child for

adoption. Are we saying that she has this right, but did not have the right to decide whether to carry the pregnancy to term? How can a woman be too immature to make such a decision, but mature enough to parent a child? This bill would give parents the power to require their daughter to carry to term, but require them to assume no responsibility for the child as grandparents. It is fundamental in our society that power entails responsibility.

The right to decide whether or not to become a parent must rest with each individual woman. A pregnant woman, 17 or 37, is entitled to make the personal choice for which she ultimately bears the responsibility. Although this bill is concerned with parental rights, I think it focuses on the wrong parents.

1. Hodgson v State of Minnesota, 648 F.Supp. 756 (1986), at 766.
2. Id at 765
3. Id. at 763
4. Risking the Future: Adolescent Sexuality, Pregnancy, and Childbearing, (C.Hayes, Ed., 1987) (A publication of the National Academy of Sciences) at 277.

In preparing this testimony, I have relied extensively on "Parental Notice Laws: Their Catastrophic Impact on Teenagers' Right to Abortion," prepared by the Reproductive Freedom Project of the ACLU.

mf/9

TESTIMONY REGARDING THE PARENTAL CONSENT BILL

MARCH 28, 1989

ANN RICHARDS, A PRESBYTERIAN MINISTER SPEAKING ON BEHALF OF THE RELIGIOUS COALITION FOR ABORTION RIGHTS IN KANSAS

THE RELIGIOUS COALITION FOR ABORTION RIGHTS AND OUR MEMBER GROUPS ARE DEEPLY SENSITIVE TO THE PROBLEMS OF AMERICAN FAMILIES. THE RELIGIOUS GROUPS THAT WE REPRESENT HAVE HISTORICALLY ADVOCATED PUBLIC POLICIES WHICH PROMOTE THE HEALTH AND WELL-BEING OF FAMILIES AND CHILDREN. FOSTERING HEALTHY COMMUNICATION BETWEEN PARENTS AND CHILDREN AND STRENGTHENING THE FAMILY IN ITS ABILITY TO HELP YOUNG PEOPLE IN CRISIS IS A HIGH PRIORITY FOR CLERGY AND LAITY ALIKE AMONG OUR CONSTITUENCY.

WE ARE CONCERNED THEREFORE ABOUT LEGISLATION WHICH ATTEMPTS TO COMPEL RATHER THAN ENCOURAGE COMMUNICATION AND INVOLVEMENT THAT IS NOT VOLUNTARILY SOUGHT. WE BELIEVE THAT LAWS RESTRICTING TEENS' ACCESS TO ABORTION BY REQUIRING PARENTAL NOTIFICATION AND OR CONSENT DO MORE HARM THAN GOOD.

FOR THE FOLLOWING REASONS WE ARE OPPOSED TO THE PARENTAL CONSENT BILL NOW BEFORE THE LEGISLATURE:

1. SUCH LAWS ARE PUNITIVE RATHER THAN HELPFUL. THEY DO NOT ENCOURAGE FAMILY DISCUSSIONS. ACCORDING TO NATIONAL SURVEYS 55% OF ALL TEENS AND 75% OF TEENS UNDER 16 OBTAINING ABORTIONS ALREADY CHOOSE TO INVOLVE AT LEAST ONE PARENT IN THE DECISION. THE RELATIVELY SMALL PERCENTAGE OF YOUNG WOMEN WHO DON'T OR CAN'T TELL THEIR PARENTS ARE ALREADY ESTRANGED FROM THEM FOR VARIOUS REASONS SUCH AS ABUSE, ALCOHOLISM, MENTAL ILLNESS, ETC. TO INVOLVE THE PARENTS IN SUCH CASES COULD MAKE A DIFFICULT SITUATION WORSE. YOUNG WOMEN IN THESE CRISIS SITUATIONS NEED HELP, NOT HASSLE, NEED LOVING CARE AND SUPPORT, NOT JUDGMENT AND CONDEMNATION.

2. SUCH LAWS INCREASE THE TEENS' HEALTH RISK. YOUNG WOMEN, SCARED TO TALK TO THEIR FAMILIES WILL OFTEN DELAY GOING TO A DOCTOR WHICH IN TURN INCREASES THE RISK TO THE WOMAN AND OFTEN THE COST AS WELL.

3. SUCH LAWS INCREASE THE YOUNG WOMAN'S BURDEN. GOING TO COURT, FINDING HER WAY THROUGH AN IMPOSING AND COMPLICATED LEGAL SYSTEM, GETTING EXCUSES TO BE GONE FROM WORK OR SCHOOL CAN BE TRAUMATIC AND FRIGHTENING TO A YOUNG WOMAN ALREADY SCARED.

4. BY THEIR VERY NATURE SUCH LAWS DISCRIMINATE AGAINST THOSE YOUNG WOMEN WHO ARE UNEDUCATED, POOR AND FINANCIALLY LEAST ABLE TO MANAGE THE BURDEN OF BECOMING A TEEN PARENT.

WE AGREE THAT TEENS IN THIS COUNTRY ARE IN CRISIS. WE BELIEVE HOWEVER, THAT THE ANSWER TO THE CRISIS OF TEEN PREGNANCY LIES WITH PROVIDING BETTER EDUCATION AND FAMILY PLANNING SERVICES FOR ALL OF OUR YOUNG PEOPLE, RATHER THAN PASSING PUNITIVE AND RESTRICTIVE LAWS.

THANK YOU!

Testimony of
Paul Shelby
Assistant Judicial Administrator

Senate Bill 91; An act relating to abortion
House Committee on Federal and State Affairs
March 28, 1989

I appreciate the opportunity to appear today to discuss technical and procedural concerns which the Kansas District Judges Association and our office have with Senate Bill 91. I want the committee to understand that we are not taking a position either pro-abortion or anti-abortion.

The Kansas District Judges Association does formally take a position in opposition to the current draft of the procedure allowing a minor to petition the Court for a waiver of consent as set out in SB 91. (Read letter from Judge C. Fred Lorentz)

If you do not delete the language allowing petitions for waiver of consent, then we have other mechanical problems. One of these concerns appears on line 135, page four of the bill. New Section 3, subparagrpah (d) reads, "The district court shall ensure that the unemancipated minor is given assistance in preparing and filing the petition and shall ensure that the minor's identity is kept anonymous." If this language means that a judge of the district court is to assist the minor in preparing and filing the petition, then we have a judge assisting a litigant and also hearing the merits of the same petition.

If you intend for district court to mean that the clerk of the district court or deputies provide the assistance, then we have a problem with K.S.A. 20-3133, which prohibits the clerks and deputies from practicing law. If the intent is to have the appointed counsel assist the minor, then I would recommend that you move lines 148-149 to line 135; and only charge the district court with keeping the matter confidential and expediting it.

Our next concern centers on lines 176 to 196; the expedited anonymous appeal process. First we feel that the time limits constraining the process are unworkable. The clerk of the district court has only five days after a notice of appeal is filed by a petitioner to prepare and forward a complete district court record of trial, including a confidential verbatim transcript of the proceedings to the Court of Appeals.

Further, the hearing before the appellate court is to be held within seven days after the petitioner's notice of appeal is filed in the district court. As I read this section, that only gives one week to compile a complete district court record including a verbatim transcript, mail the file to Topeka, and for the Court of Appeals in Topeka to schedule and and conduct a hearing. This extremely short time limit will impose a burden on all concerned. Other urgent judicial business matters will have to be deferred and rescheduled in order to grant priority to this matter.

THE THIRTY-FIRST JUDICIAL DISTRICT OF KANSAS

Second Division

Hon. C. FRED LORENTZ
District Judge
COURTHOUSE, FREDONIA, KS 66736

SHAUN J. HIGGINS, RPR-CM
Official Court Reporter
COURTHOUSE, FREDONIA, KS 66736

AREA CODE 316

FREDONIA OFFICE	– 378-4361
CHANUTE OFFICE	– 431-4640
ERIE OFFICE	– 244-3231
IOLA OFFICE	– 365-5145
YATES CENTER OFFICE	– 625-2187

March 14, 1989

Representative Robert H. Miller
Representative Ginger Barr

Re: Senate Bill 91 (Consent to Abortion)

Dear Representatives:

When I wrote to you on February 15, 1989, I indicated that the Kansas District Judges Association, although opposing a similar bill last year, had not had an opportunity to meet, discuss and take a position this year on Senate Bill 91 dealing with consent to abortion. We have since had that opportunity.

The KDJA is not taking a position pro-abortion or anti-abortion. The association does formally take a position in opposition to the procedure allowing a minor to petition the Court for a waiver of consent as it is currently drafted.

Generally, Judges are called upon to rule upon disputes between two or more parties or in some cases to determine if a single party should be excepted from following established state policy.

Senate Bill 91 does not set a state policy with guidelines which, if the Court finds they exist, would excuse a party from compliance. Nor does Senate Bill 91 provide for required notice to legally interested parties so that all of the pros and cons of a given situation are presented with the Court to make a finding in favor of one party or the other.

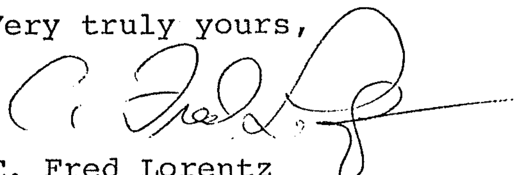
As was pointed out in my February 15 letter, without an established policy or guidelines with notice, a Judge can only resort to his personal moral views. I know of no other instance which allows such freedom to a Judge and I would submit that it would be a dangerous precedent to establish, aside from the personal dilemma it would put each Judge in.

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 14A
3/28/89

For the foregoing reasons, we would ask that Senate Bill 91 be amended to delete the language allowing petitions for waiver of consent, or in the alternative, that the bill be killed or reported unfavorably.

Thank you for your consideration.

Very truly yours,



C. Fred Lorentz
Kansas District Judges Association

cc: Hon Jerry Mershon, Pres.
Kansas District Judges Association

Task Group on Child Custody Issues
of the National Organization for Changing Men

618 Vattier Street
Manhattan, Kansas 66502
913/532-6387x32 (daytime)
913/537-3294 (evening)

March 25, 1989

Members of the House Committee
On Federal and State Affairs
Statehouse
Topeka, KS 66612

Dear Representives:

My opposition to Senate Bill 91 is grounded in five years experience as an educator in an international community of men working to end sexual assault and the other forms of male violence against women. The proponants of this bill say that it fosters the family structure. I say that it fosters domination, humiliation, and control of women — the same behaviors which motivate the violence I seek to end.

Let us be very clear that Senate Bill 91 institutes a system of control over women under the age of 18. We need only examine the term the bill uses for the class of women not subject to its control, "emancipated minors," to see this. The American Heritage dictionary defines *to emancipate* as:

1. To free from oppression, bondage, or authority; liberate.
2. To free from restraint.
3. *Law.* To release (a child) from the control of his [sic] parents.

Thus, this bill seeks to institutionalize oppression, bondage, restraint, and control over all female minors who are not "emancipated."

To clearly acknowledge the effects it would have on young women we need to move beyond our denial and examine the extent of the violence they have already faced by the age of 18:

- One in four women has been sexually assaulted by age eighteen.[1]
- Of these rapes, 90% were committed by men known to the victims,[2] i.e., fathers, brothers, peers, and friends of parents.
- In at least 50% of all U.S. marriages at least one incident of spousal abuse has occured and in 10-25% violence is a common occurance.[3]

---

[1] National Center for Child Abuse and Neglect.

[2] M. P. Koss, *Journal of Consulting and Clinical Psychology*, March 1987.

[3] "Report of the National League of Cities and the United States Conference of Mayors," in Langley & Levy, *Wife Beating - The Silent Crisis* 4 (1977).

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 15
3/28/89

- In addition to the emotional scarring of young women who witness their father's dominating, humiliating, and controlling violence against their mother, men who batter their wives will frequently sexually abuse their children as well.[4]

Having control over their bodies usurped by the rapist is a central trauma in women's experience of rape. Regaining a sense of control over their lives often takes years. If you enact this bill you would force young women to re-experience the subjugation of their bodies to the will of another person, which is certain to retraumatize them. Thus, institutionalizing control over women's bodies is another form of violence against them.

Imagine how such a law would effect a pregnant woman who has at some time been raped by her father or another family member. The intent of this bill is clearly to force such a women to put control of her body in the hands of someone who has already grossly violated her.

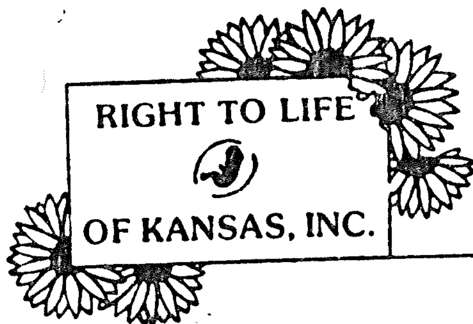
Perhaps you protest that this is a "resasonable bill" that contains a provision allowing such a woman to petition the court for a waiver of parental consent. Let me rephrase this provision into the experience of a rape survivor. "This bill would force a young woman who does not want to put control of her body into the hands of a man who has abused or raped her, to instead put control of her body into the hands of a judge." That is not a reasonable option.

In summation, it is clear to those of us who are working to end violence against women that coercion and control are central to this violence. Because Senate Bill 91 seeks to institutionalize coercion and control over women it constitutes violence against women. Is that what you want to promote?

Respectfully,

Jack Straton
Task Group Coordinator

[4] *Safetouch* by Marcia K. Morgan, (Rape Crisis Network, Eugene, Oregon, 1985)



Crosby Place Mall
717 S. Kansas Ave. Topeka, Ks. 66603 (913) 233-8601

Kansas House of Representatives
Federal and State Affairs Committee, Ginger Barr, Chmn.
Testimony in opposition to Senate Bill 91, 3/28/89

Madam Chairman and members of this committee, I am Helen DeWitt, a registered nurse and lobbyist for Right To Life of Kansas, Inc. I welcome the opportunity to represent my organization in opposition to Senate Bill 91.

Yesterday we listened to testimony of proponents of this bill and among those was an organization called Kansans For Life. Kansans For Life has admitted, in their March Newsletter, that Senate Bill 91 complies with the Supreme Court decisions legalizing abortion on demand. In doing so, S.B. 91 does not restrict a minor's right to abortion, but may allow parents to decide whether or not an abortion would be in the best interest of their minor child. Kansans For Life, by giving support to the concept that parents may consent to abortion, marks the first time in Kansas that an organization claiming to be prolife, has agreed with the principle that killing unborn babies may be legitimate in some instances, such as if parents give consent.

Another organization, the Kansas Catholic Conference, also stood in support of the concept that parents may consent to abortion. According to the Catholic Conference lobbyist, he is authorized by the Catholic Bishops in Kansas to represent the Roman Catholic Church. I want to read to you a statement issued by the Roman Catholic Bishops in America on Feb. 13, 1973, three weeks after the U.S. Supreme Court legalized abortion on demand. That Statement reads in part: Quote. "We find that this majority opinion of the Court is wrong and is entirely contrary to the fundamental principles of morality. Catholic teaching holds that, regardless of the circumstances of its origin, human life is valuable from conception to death because God is the Creator of each human being, and because mankind has been redeemed by Jesus Christ. No court, no legislative body, no leader of government, can legitimately assign less value to some human life. Thus, the laws that conform to the opinion of this Court are immoral laws, in opposition to God's plan of creation and to the divine law which prohibits the destruction of human life at any point of its existence. Whenever a conflict arises between the law of God and any human law, we are held to follow God's law...." Unquote.

Madam Chairman and members of this committee, while some of you may disagree with this statement, the world has long admired the Catholic Church for remaining firm against any abortion. Senate Bill 91 admits to the liceity of abortion. Parental consent to abort is consent to kill.

Madam Chairman, Kansans For Life and the Kansas Catholic Conference have been the major supporters of this bill and have promoted it as a parental rights bill. However, no where in the bill is there even one line which speaks to the rights of parents to say no to abortion, or even to say yes, for that matter, unless the minor child herself elects to seek parental consent. Moreover, amendments

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 16
3/28/89

added to the bill in the Senate Committee has made S.B. 91 a trojan horse which, hidden inside the bill, is the agenda of Planned Parenthood and S.R.S. to establish abortion services in the school system. Surprisingly, no attempt was made by these two major supporters of S.B. 91 to keep the amendments off the bill, in spite of the fact that six of the eleven committee members are strong and vocal prolifers, nor was there any attempt to remove the amendments on the Senate floor, where 27 of the 40 members had previously voted to pass virtually the same bill with no amendments, except to lower the age to 16. These amendments were clearly designed to make S.B. 91 more acceptable to the Kansas House of Representatives, who have refused to pass this bill in the past.

Yesterday, when proponents of S.B. 91 were asked if they would continue to support this bill if amendments were left on the bill they said no. And, yet, they continued to support the bill as amended when it left the Senate. The hypocrisy of it all has caused much confusion and division in the Legislature as well as among citizens of Kansas themselves. In the last ten days we have received hundreds of messages and over 1600 signatures of people from across the state who, once they learned the truths of the effects of this bill, are angered by the fact that it has been promoted as a prolife measure. They are opposed to Senate Bill 91 and to the killing of any unborn child.

The prolife movement in Kansas for 20 years has defended the rights of unborn babies to be born alive. Our position has remained clear. Unborn babies are persons deserving of equal protection under the law and no one, not the Supreme Court, not a woman, not a physician, not a legislator, not a parent, a grandparent, a guardian or a judge has the right to kill.

Senate Bill 91 by admitting to the legitimacy of abortion is not prolife. We ask you to recognize that unborn children in Kansas have the right to be protected from legalized abortion and urge you therefore, to reject Senate Bill 91.

Respectfully submitted by

Helen M. DeWitt

Helen M. DeWitt, R.N.
Lobbyist, Right To Life of Kansas, Inc.

TESTIMONY PRESENTED TO Kansas House FEDERAL AND STATE AFFAIRS C([illegible]TEE

By; Mrs. Catherine M. Wahlmeier

When; March 28, 1989 1:30 p.m.

Chairperson Barr--members of the House Federal and State Affairs Committee I appreciate the opportunity to voice my opposition to SB 91. As a concerned Kansas citizen, a homemaker and registered nurse, I readily admit to lacking knowledge and training in law making and all that it entails. But, just reading the copy of SB 91 as it is amended, raises more questions in my mind than I have answers to. Let me pose just a few of them for you;

1) Why call this bill in its present form a 'parental consent'? The parents can be totally by-passed if this bill is made into law. Whose idea was this?

2) Why were those sections that supported true parental rights removed from the bill? Again, who is responsible for this?

3) In light of the case pending before the Supreme Court, Roe vs. Wade could be adjusted or reversed. Why the big PUSH to adjust and further relax the Kansas abortion law at this time? Who is responsible?

4) Are we not forcing school nurses, counselors and employees of SRS including secretaries, and/or any designated person the secretary may choose, to act against their conscience in aiding a minor to kill her unborn child? Who can really believe that this would be an improvement in our Kansas law?

5) Would it not be expecting the impossible to have an already pregnant minor now make a mature decision as to what is in her best interests? What will her state of mind be when the school nurse, counselor, SRS designate and maybe even a judge have all had their turn at 'helping' her--all except her parents? Who can we go to to voice our real concern if not to members of this committee?

6) Where and when do we learn about all the costs involved? Once again I ask, who is responsible?

7) Why is 'seperation of Church and State' lauded when it is advantageous to the State and ignored when it may help those holding to Christian beliefs? Just who do we go to for the answer? Do we not have the right to demand that God's law 'thou shalt not kill' be taken into account in making any decision that would be made regarding a pregnant minor? Are we really responsible?

8) How can I, the parent of 3 minor daughters, not object to a bill that is attempting to strip my husband and I of our rights and responsibilites in caring for our daughters (should they ever have the misfortune of being a pregnant student in a private or public school in this state)?

I ask you sincerely, that in trying to answer these questions, do you not agree with me that SB 91 has all the makings of a very bad law. Please see that it does NOT become part of our Kansas law. You are responsible to the citizenry, and to God, the Supreme Lawmaker.

Thank-you!

TESTIMONY OF NINA J. STRAHM TO THE COMMITTEE ON FEDERAL & STATE AFFAIRS CONCERNING SENATE BILL 91

March 28, 1989

Madam Chairman and members of this Committee:

I am Former State Rep. Nina J. Strahm, freelance technical writer and engineer. A parent of three grown children and a grandmother of four, a sit-in mother and friend to over 68 young people who were severed from their families or recouperating from drugs.

I come before you to express my outrage and tears over Senate Bill 91. This bill makes available to children of every age who have reached puberty the right to have an abortion, in a manner which isolates the family and leaves the family no right or interest concerning the welfare of its child.

Lines 122-123 are very similar to those doctors and nurses that perform abortions whether it is against their belief or not. Patti Burke who is a registered nurse told me how, when she was expecting her baby, had to hold live aborted babies until they died and was not allowed to help them live. Her profession had changed from a healing to killing profession.

So will it be for school counselors and school nurses, when they against their beliefs, must counsel a girl and help her on her way to an abortion. This should not be in the hands of school personnel, but in the homes and lives of the family support group.

Lines 65 thru 67, 87 thru 89 "emancipated minor," the child only has to "con" you into believing she's off the street, "I don't know where my parents are," "I'm only a child." There is a little truth, but no honesty. An example: Truthful "Mom," I'm going to the store to buy some gum." Honesty "Mom, I'm going to the store but on my way I'll rob Mrs. Jones purse, and purchase crack and buy some gum."

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 18
3/28/89

Line 93 thru - starts the exception which violates the family unit. What is "reasonable time", what is the definition of "manner" when trying to find parents? It is redundant because line 98 and 99 state that if the parents refuse the abortion or if they cannot be contacted in a time set by the person or persons doing calling, searching or looking, they will counsel the child, or the child will elect not to seek consent of family, she may apply to they court for an abortion.

Lines 158 thru 165 The child gives information to the social worker assigned to her. This is information on family history, health, how she came to be pregnant, etc. How many of you have heard descriptions from a 7 year old to an 18 year old? Some can be highly colored, some can be lies because of fear, and some not wanting to face reality will say some very strange things. But she will remember what she said and some will have a life time to live with it and others not totally aware of their health problems could die of an abortion. Health problems their parents would have been aware of. An abortion is never safe, it is a surgical procedure performed by a surgeon. I was in Los Angeles last year and while there, the headlines in the newspaper read "Mother of 3 dies," she laid in an abortion clinic all day and died from losing blood, before her husband was called. Yes, it was licensed, yes, there was a physician.

But just to make sure she gets an abortion, an abortion without family support, the senate has set-up a bill so that if you cannot get an abortion under one definition they'll give you another, and another until you qualify. I call it the escape hatch, you never lose. But one cannot escape the fact that one child will be able to abuse another child, a fetus she carries within her, the baby she wanted so she would have somebody to love, perhaps. But this August body of government by making this law encourages her to be sexually active, encourages her to have an abortion, and in no way encourages her to make good responsible decisions as in lines 142 thru 149 she does not have the responsibility of being in court, someone else, a case worker, speaks for her.

Line 165 - the district court shall grant the petition for abortion to a child as young as 7 or 8 yars old without the parents' knowledge and if you look at line 69 you will understand why it is in pictorial form and if you are a parent you'll wonder who taught your baby to draw pictures of her abortion. Where is her family that she needs so desperately, the government has severed her relationship to their compassion and love.

Line 172 will make the child mature enough and well informed enough to waive consent and if that doesn't work there are lines 174 & 175 the abortion should performed for the child's best interest, without her loved ones there. But if all else fails lines 194, 195 & 196 if the courts fail to comply to the time set fourth the child automatically gets an abortion.

Please remember that most children and teenagers cannot remember when to brush their teeth and take their vitamins much less remember to take the pill or what it will be like to suffer the consequences of abortion and especially without family support group.

You say 7 and 8 year olds can't get pregnant, yes they can if they reach puberty and many of them take drugs at 7 or 8 and once hooked on drugs must find a way to pay for it and they prostitute themselves for drugs and you say it can't happen in your family, you're wrong; I've seen some of the wealthiest, some of the most loving families, and some middle income families with both parents working and a latch key kid comes home along. It's not just the consequences of abortion that has to be met with, whatever drove them to be sexually active has to be dealt with.

I've sat and cried with and tried confortіng young women who had abortions without their folks knowing and they cannot forgive themselves, even when they change their lives and become Christians. God and Christ can forgive them, but they cannot forgive themselves. A good many young women stopped maturing at the time their abortion took place, like the clock stopped, and they fail to grow up and they have husbands and children they cannot deal with because they are still children in search of emotional gratification and the

need to be a normal child with love and support of family, which she cannot have because she's always afraid of her secret, she is never the same, never is really able to come home.

Line 62-63 bothers me greatly because if it is a live child under this bill, you do nothing to save it, you abuse this precious young life and destroy another, the mother.

Many of you on this committee are men and cannot comprehend and some of you women on the committee may have hardened your hearts, but please try to understand that like a woman being raped, and involuntarily must submit to being abused in her most private nad vulnerable places, so does a young child and teenager feel when they have had an abortion, and I do not care what the parent has been like in the past relationship, I really don't know what or how the social worker thinks of the parents, that child will reach out and hug, hold on tightly to tat loved one for support.

I ask you for the family, for the child and for the future of all humanity to vote NO on SB91.

Thank You

March 28, 1989

Madam Chairperson and members of the House Federal and State Affairs Committee.

I am Cleta Renyer from Sabetha. I speak to you today on behalf of myself as a mother and as President of Citizens For Life of Nemaha County.

Senate Bill 91 has been widely promoted as requiring the mandatory consent of parents before a minor can get an abortion 'thereby protecting the rights of parents to rear their children.' And the bills proponents also tell us that it will effectively reduce the number of teenagers getting abortions in Kansas anywhere from 15 to 50 per cent.

Why then do I, a long time ardent supporter of the pro-life movement and equally strong proponent of parental rights, oppose this bill?

There are three main reasons.

First: I believe in the Judeo-Christian philosophy that we were each created by God in His own image. That God alone has the right to decide the beginning and the end of the life of each human being. Our founding fathers understood this when they wrote in the Declaration of Independence, "We are endowed by our

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 19
3/28/89

Creator with certain unalienable rights." And they enumerate them giving life the number one position. The authors of our own Kansas Constitution understood this when they wrote as the first of the Bill of Rights, "All men are possessed of equal and inalienable natural rights, among which are life, liberty, and the pursuit of happiness." Webster's dictionary defines 'inalienable' as "that which cannot be surrendered or transferred to another," We cannot transfer the right to kill an as yet unborn child to it's parents or grandparents.

Second: With the judicial by-pass procedures and other exceptions it undermines the whole family structure.

My third concern is that it will give a false sense of security to those who would like to see the number of abortions reduced. The proponents of this bill tell us on one hand that this is not an anti-abortion bill. Yet, they promote it saying it will stop from 15 to 50 percent of teenage abortions performed in Kansas.

In Minnesota, where a parental notification law went into effect August 1, 1981, statistics received from the Minnesota Health Department show the number of abortions for those under 18 years old went down 40 per cent from 1980 to 1983. Reports from Massachusetts, where they have a parental consent law, indicate that the abortion rate for minors in that state may have gone down as much as 50 per cent. But they don't say which years were compared.

Let's compare those figures to statistics compiled by the Kansas Department of Health and Environment. The number of abortions for minors went down 38 per cent from 1980 to 1983. Just slightly less than Minnesota. But if we begin with the year in which the greatest number of teenage abortions occured in both Kansas and Minnesota, 1979, we find that while abortions in Minnesota went down almost 41 per cent; in Kansas they were reduced by over 46 1/2 per cent. And if we compare 1979 to 1986 we find that teenage abortions were reduced nearly 57 per cent in Kansas. Better, even, than Massachusets with it's nearly 50 per cent decline.

Why such a big drop in Kansas? Could it be because the Kansas legislature in the 1979 session reduced the amount of money budgeted to pay for abortion in 1980 from a quarter of a million dollars to $25,000.00.

My concern, then, is that it was acknowledged during debate on the Senate floor that this bill, should it become law, may require state payment for abortions performed on minors. If this bill becomes law, we may very well, and in all probability will, see an increase in teenage abortion, perhaps even a skyrocketing, rather than a decrease.

Therefore, I respectfully ask you to vote against adoption of this bill.

Thank you.

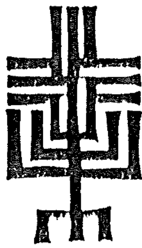
Testimony
to the
Federal and State Affairs Committee
Kansas House of Representatives
Re: Senate Bill 91
M. Rex Fuller, Ed.D.
March 28, 1989

I would like to stand in support of parental consent. The idea that an abortion can be performed upon a minor, without informing the parent or guardian responsible for her, is unthinkable. Surely, those who bear the burden of responsibility must be informed.

However, I must testify in opposition to Senate Bill 91 as it presently stands. I consider myself a law-abiding citizen of Kansas. It is my desire to obey the laws passed by this legislature. If Senate Bill 91 is passed and signed into law by the Governor, I would be unable to obey it. As an educator, I could not advise a girl to have an abortion. Neither could I, in good conscience, advise her to seek guidance from someone who might encourage her to have an abortion. Instead I would encourage the girl to find the support and proper prenatal care needed during her pregnancy.

At the beginning of this Legislative term I was a supporter of Senate Bill 91. Nearly fifty of the teenagers in Knollwood Baptist High School signed petitions supporting the bill. However, I must respectfully request that you kill the bill as it was forwarded by the Senate. Thank you.

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 20
3/28/89



RCAR in KANSAS

Religious Coalition for Abortion Rights in Kansas

POLICY COUNCIL 1988 -1989

Sarah Chappell Trulove
808 Alabama
Lawrence, Ks. 66044

Chair United Church of Christ Knasas-Oklahoma District
913-841-0925

Rabbi Lawrence Karol
4200 Munson
Topeka, Ks. 66604

Secretary Union of American Hebrew Congregations Mid-West Council
913-272-6040

Rev. Lesslie Anbari
6131 S.W. 21st. Terrace
Topeka, Ks. 66604

Presbytery of Northern Kansas
Treasurer
913-273-4886

Rev. Ann Richards
1275 Boswell
Topeka, Ks. 66604

Committee on Women's Concerns Synod of Mid-America
Presbyterian Church USA
913-357-0339

Lee Ketzel
315 Park Hill Terrace
Lawrence, Ks. 66046

Unitarian Universalist Prqrie Star District
913-843-4834

Ann Marshall-Levine
3107 West 21st.
Topeka, Ks. 66604

National Federation of Temple Sisterhoods
913- 296-5301

Beth Sheffel
323 S.W. Greenwood
Topeka, Ks. 66606

Topeka Young Women's Christian Association
913-354-1818

Betty Nelson
4100 Munson
Topeka, Ks. 66604

Kansas East Conference United Methodist Church
Board of Church and Society
913-272-2573

Rev. Edith Funk
2545 S.E. Bennett
Topeka, Ks. 66605

Kansas East Conference United Methodist Church
913-235-9018

Richard Benson
2937 N.E. Oakwood
Topeka, Ks. 66617

At-large Member
913-289-3190

Kansas City-Metro RCAR
Rev. Susan Vogel
5123 Truman Rd.
Kansas City, Mo. 64127

816-483-9600

Kansas West RCAR
Tessie Pringle
Route #1 Box 22
Tribune, Ks. 67879

316-376-4408

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 21
3/28/89

1248 Buchanan • Topeka, KS. 66604

Religious Coalition for Abortion Rights in Kansas

1248 Buchanan Topeka, KS 66604 913-354-4823

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
STATEMENT ON SENATE BILL 91

8 February 1989

The Religious Coalition for Abortion Rights and our member groups are deeply sensitive to the problems of American families. The religious groups we represent have historically advocated public policies which promote the health and well-being of families and children. The clergy and laity we work with minister daily to people in crisis, people in pain, trying to meet human needs as part of their faith commitments.

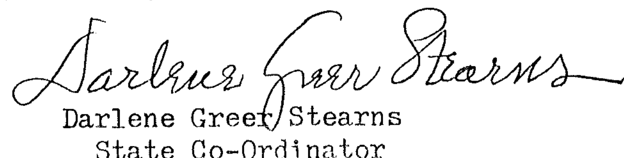
They certainly share the goal, and the frustrations, of those who see the stress and struggles of families and want to respond positively. Fostering healthy communication between parents and children, and strengthening the family in its ability to help young people in crisis is a high priority for ministry.

But developing public policy in the area of teen pregnancy is fraught with pitfalls. Teen pregnancy and child-bearing raises public anxieties, fears and anger in a unique way, because it touches the most sensitive areas of sexuality, religious belief and the relationship between parent and child.

Once a teenager becomes pregnant, the legal options available to her are the same as for any woman, keeping the child, putting the child up for adoption or terminating the pregnancy by abortion. While RCAR's member groups may differ on when abortion may be a moral alternative, they agree that it must be a legal option for all women, including teenagers.

Any legislature confronted with a bill mandating parental consent or notification before a minor can abtain an abortion must address a series of questions honestly and thoroughly before acting. What are the goals of this provision, and are these goals in fact wise and appropriate? Whose rights and needs is the law designed to serve? The teenagers? The parents? Or is this really about the alleged rights of the fetus and the morality of abortion? What other values and rights may be compromised by mandatory consent or notification? What would be the actual effect of the law? Would it further family communication and coping, or would it in fact do something else altogether? Are there alternatives which would be more effective in accomplishing the same purpose, without the serious negative consequences of legal mandates?

All of RCAR's member groups would oppose a law which would ban abortion for teenagers, either through actual intent or through its effect when implemented. Some of our member groups are unequivocally opposed to legislation by which the government would override a young woman's decision about abortion or about whether to involve her parents in her choice about abortion. Other member groups and individuals have no specific position on parental consent requirements. However, RCAR cannot support any such law, unless it would have a positive effect on the physical, mental and emotional health of the teenager, as well as protect her confidentiality and access to legal abortion services, rather than have the negative impact that has been documented for many of the parental consent laws enacted by legislatures to date.



Darlene Greer Stearns
State Co-Ordinator

TO -- Senate Federal and State Affairs Committee Members

R/E -- THE PARENTAL CONSENT FOR MINORS BILL

Dear Committee Members,

I am writing to express my concern about the Parental Consent for Minors bill.

I feel that this bill is an infringement of the constitutional rights to reproductive choice for women under the age of eighteen. This bill is yet another attempt to diminish a young women's right for freedom of choice for control over her own body. The young women should be the person to make the decision to become a parent and not the court, a judge, or the family.

Also, if a young women does not have a positive relationship with her parents, the results of this bill could cause further stress in that relationship.

I believe the real goal of this bill is to stop abortion and not to help young women under the age of eighteen.

I would strongly encourage you to vote against The Parental Consent for Minors bill.

Sincerely,

Betty J. Nelson

Betty J. Nelson
Policy Council, RCAR in Kansas

Temple Beth Sholom
LAWRENCE P. KAROL
Rabbi
4200 Munson
Topeka, Kansas 66604
(913) 272-6040

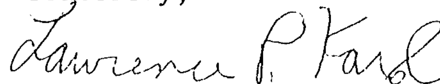
February 7, 1989

Dear State Legislators:

I am writing you to express my views regarding the parental consent bill in abortion cases for girls in their mid-teen years. I have dealt with many family situations in my years as a clergy person. There are, fortunately, many instances in which families are functional in a positive way and where this legislative proposal on consent would merely affirm what already takes place. On the other hand, there are other cases where unhealthy family relationships may prevent a girl from seeking parental support or advice. A law that requires consent in a family with current problems may actually exacerbate the situation.That is where clergy, counselors, teachers, adult relatives or other significant adults can be helpful.As stated, the bill in question does not account for the assistance that qualified professionals or adult relatives or friends can provide in the process of making such a difficult decision. The role of parents is unquestionably important in guiding the decisions of their children. Yet, in this stressful context, mandated parental consent could hopelessly divide a family rather than bring parents and children together in a spirit of understanding and sensitivity.

Parental authority is a crucial part of family life. It can be used to engender the respect of all members of the family circle, or it can, if abused, foster feelings of resentment and mistrust in dealings with people. The parental consent legislation assumes that parents are the only adults who can help a teen take responsibility for a decision. For the situations where the most trusted adult is someone other than a parent, I ask that you oppose the parental-consent-for-abortion bill.

Sincerely,



Rabbi Lawrence P. Karol

Religious Coalition for Abortion Rights in Kansas

1248 Buchanan Topeka, KS 66044 913-354-4823

To: Members of the Federal and State Affairs Committee
Senator Reilly, chair

From: Sarah Chappell Trulove, Chair, RCAR in Kansas

I write to state my opposition to SB 91, the "parental consent bill," a bill which would require consent of one parent or a judge for any female under the age of 18 before she may obtain an abortion. I speak against this bill in my capacity as chair of the policy council for the Religious Coalition for Abortion Rights in Kansas, as a designated member to that policy council from my denominational affiliation, the United Church of Christ, Kansas/Oklahoma Conference, as a woman, mother and grandmother.

The Religious Coalition for Abortion Rights opposes any legislation that would prohibit a woman's right to abortion based on the first amendment right to freedom of religious practice. Member denominations and religious organizations in RCAR believe that there is no biblical proscription against abortion, and that as God has given us the free will to make moral choices, it follows that on the matter of abortion there is also freedom of choice. To deny women this right is to deny them their constitutional right of freedom of religious practice. My denomination, the United Church of Christ, has long affirmed freedom of choice with respect to abortion.

As a woman, mother and grandmother, I view the necessity for abortion a sad--even tragic one. But to compound the unfortunate, the tragic and even the dangerous, by forcing women, from the very young to the more mature to give birth, is to act without compassion, understanding, and deny one of our most basic rights, that is, the right to privacy in a matter which is of the deepest intimacy--one in which the state has no right to interfere.

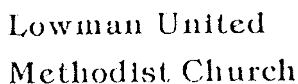
But the issue here is not to restrict abortions for all women, but for a certain group of women, those below the age of 18. (The fact that supporters of the bill have set the age at 18 rather than 16, the legal age for sexual activity, seems to me especially punitive. It reveals not a concern for the families, which is what their rhetoric would have you believe, but an attack on the legal right for all women.) Proportionately, this is the group whose lives would be most tragically altered if they were unable to end an unwanted pregnancy.

Supporters of this bill would have you believe that the result of requiring parental consent would be to "bring families together," a romantic dream which is simply

not borne out in the case studies of young women seeking abortions. Pregnancies, especially in the youngest members of this age group, are frequently the result of a relationship within the family, a father, step-father, uncle, boyfriend, etc. Ignorance also plays a large role in the instances of pregnancy among the very young--ignorance of their bodies and ignorance of preventative measures. Lack of access to birth control methods, which supporters of this bill would deny as well, is also a major factor. Rather than "bringing families together" the announcement of an unwanted pregnancy can frequently have the opposite result.

I have worked in support of abortion rights for more than a decade and my experience confirms over and over that young women who have loving and caring families do seek support when faced with this dilemma and it is given. Indeed, the ideal is that every woman seeking an abortion have the love and support of family and close friends. But when the family is not loving and caring, or in crises, to demand that a pregnant young girl involve them in this decision is to exacerbate an already troubled or difficult situation.

All of us would like to see a diminishment in the need for abortions, but this type of legislation will not diminish that need. What <u>is</u> needed is programs to support troubled families and teenagers, better education for youngsters with regard to their developing bodies, and birth control methods, as well as free and available health care for those who choose to carry through the pregnancy, with follow-up child care. Those who vehemently oppose abortion expend their energies in the wrong direction. Such energy should be directed at reasoned and compassionate support and with a willingness to work together with pro-choice people to create a society in which the necessity for abortion, for whatever reason, will be be lessened.



Lowman United
Methodist Church

Reverend Larry Keller

4000 Drury Lane
Topeka, Kansas 66604

February 4, 1989

Dear Federal and State Affairs Committee:

I am writing to you concerning the Parental Consent Bill that is before your committee. The following is the official United Methodist position concerning abortion:

> G) *Abortion.*—The beginning of life and the ending of life are the God-given boundaries of human existence. While individuals have always had some degree of control over when they would die, they now have the awesome power to determine when and even whether new individuals will be born. Our belief in the sanctity of unborn human life makes us reluctant to approve abortion. But we are equally bound to respect the sacredness of the life and well-being of the mother, for whom devastating damage may result from an unacceptable pregnancy. In continuity with past Christian teaching, we recognize tragic conflicts of life with life that may justify abortion, and in such cases support the legal option of abortion under proper medical procedures. We cannot affirm abortion as an acceptable means of birth control, and we unconditionally reject it as a means of gender selection. We call all Christians to a searching and prayerful inquiry into the sorts of conditions that may warrant abortion. Governmental laws and regulations do not provide all the guidance required by the informed Christian conscience. Therefore, a decision concerning abortion should be made only after thoughtful and prayerful consideration by the parties involved, with medical, pastoral, and other appropriate counsel.

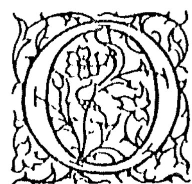
As you can see, as United Methodists we support the right of a woman to choose an abortion after thoughtful and prayerful consideration by the parties involved with medical, pastoral, and other appropriate counsel. I therefore do not ask you to reject the "Parental Consent Bill" without much professional thought and deliberation. I too am concerned about parental rights and guidance. However, I am also concerned about the youth who are victims of sexual abuse, physical abuse, incest, and rape. The state while meaning to side with the good parent could actually unintentionally collude with the abusive parent. Instead of reiterating the statistics I am enclosing a one page statistical page that is reflective of my concerns.

I feel compelled to say that my concern is also reflective of my pastoral experience. I am presently working with a 13 year old pregnant girl and her mother. Though this girl has an average communication with her mother she did not share about her pregnancy until she was 23-24 weeks pregnant. They decided to have an abortion, but after a good consultation with Dr. Tillar decided to go the adoption route. In my brief experience with Dr. Tillar I have found him to be a sensitive, professional, and highly ethical person. If the "Parental Consent Bill" would pass I am afraid that an abused girl would wait until an abortion would no longer be a difficult and painful option in a tragic situation.

Respectfully,

Reverend Larry Keller

For some children the bedtime story is just the beginning of a nightmare.



nce upon a time'' is how most bedtime stories begin.

They lead children through a fairy tale world which ends ''happily ever after.'' Unfortunately, grim reality prevents thousands of children from sharing this world of make believe.

INCEST

Despite a recent increase in awareness, child sexual abuse, and especially incest, is still ''the silent crime''—its effects remain misunderstood and often unknown.

ALMOST 100,000 CHILDREN WERE REPORTED VICTIMS OF CHILD SEXUAL ABUSE AND INCEST IN 1982. The National Center on Child Abuse and Neglect (NCCAN) of the Department of Health and Human Services estimates that in 1982, 65,000 cases of child sexual abuse were officially reported to child protection service agencies throughout the nation. These cases involved as many as 98,000 children.[1]

INCEST IS A GROSSLY UNDERREPORTED CRIME. The victims themselves often do not report the crime ''because of ignorance, fear of reprisals by the perpetrator, (and) fear that their parents will blame them.''[2] In the case of incestuous relationships, other family members may be aware of the abuse, but do not bring it to the attention of the authorities ''for fear of social censure, public scrutiny, and removal of the family breadwinner.''[3] For these reasons, the reported cases of child sexual abuse and incest represent only ''the tip of an unfathomable iceberg.''

ANYWHERE FROM 9% TO 52% OF WOMEN AND 3% TO 9% OF MEN WERE SEXUALLY VICTIMIZED AS CHILDREN. Although studies differ in the percentages they obtain, they all reveal that child sexual abuse is a major and prevalent social problem.

THE MAJORITY OF VICTIMS ARE ABUSED BY FAMILY MEMBERS AND FRIENDS, NOT STRANGERS. A study conducted by David Finkelhor of the Family Violence Research Program of the University of New Hampshire found that ''75% of the experiences reported were with older persons known to the child. Forty-four percent were with family members, including uncles, grandfathers, brothers-in-law, fathers and brothers. Twenty-two percent were within the nuclear family, and 6 percent were with fathers and stepfathers.''[3]

Since the perpetrator is usually a nonstranger, he can often have frequent access to the child. This means that the abuse can occur repeatedly and over a long period of time.

CHILDREN FROM LOWER INCOME FAMILIES ARE MORE OFTEN VICTIMS OF SEXUAL ABUSE. In Finkelhor's study, girls from families with incomes of less than $10,000 were two thirds more likely to be victimized than the average girl.

PREGNANCY CAN AND DOES OCCUR FROM INCEST AND OTHER FORMS OF CHILD SEXUAL ABUSE. An act of unprotected intercourse results in pregnancy about 4% of the time. But incestuous relationships involve repeated abuse and often repeated acts of intercourse. This frequency of abuse makes pregnancy much more likely. In a study of 237 female victims of sexual abuse, 12% became pregnant.[4] 19% of the child victims in a 1963 sample became pregnant.[5]

RAPE

THE NUMBER OF RAPES REPORTED IN THE UNITED STATES IN 1982 REACHED 77,763. According to the FBI, approximately 65 out of every 100,000 women in the country were reported rape victims in 1982.[6]

THESE STATISTICS DO NOT EVEN BEGIN TO REFLECT HOW PREVALENT RAPE IS. Whether through fear of reprisals, shame or isolation, many rape victims do not report the crime to the authorities. Victims may also dread the possibility that their trauma might be compounded by the unwanted intrusion and sensationalism of a rape trial.

According to Dr. Menachem Amir's study, between 50% and 95% of rapes go unreported.[7] A study of rape in San Francisco found that only one in 25 rapes in that city were reported to the police.[8] It has been estimated that rape is so common that one in three women is likely to be raped during her lifetime.

AN ESTIMATED 32.2% OF RAPE VICTIMS ARE UNDER 20 YEARS OF AGE.[9] Victims under 20 are also less likely to report the crime to the police.[10]

POOR WOMEN ARE MUCH MORE LIKELY TO BE VICTIMS OF RAPE THAN MORE AFFLUENT WOMEN. A 26-city survey conducted by the Department of Justice estimates that women with a family income of less than $10,000 are 11 times more likely to be raped than women with a family income of $25,000 or more.[11]

MANY RAPE VICTIMS FACE UNWANTED PREGNANCIES. An act of unprotected intercourse results in pregnancy about 4% of the time. Rape is not an exception to this rule.

Pregnancy is less likely when the victim is administered a post coital contraceptive. But the same feelings of fear, shame and isolation which prevent a woman or girl from reporting rape to the police may prevent her from seeking proper medical care. This greatly increases the risk of pregnancy. The claim that psychological trauma somehow prevents pregnancy is unfounded.

NOTES

1. ''Profile of Child Sexual Abuse,'' NCCAN.
2. ''Everything You Always Wanted to Know About Child Abuse and Neglect,'' NCCAN, p 9
3. David Finkelhor, ''Risk Factors in the Sexual Victimization of Children,'' in *Child Abuse and Neglect*, Vol. 4, p 266
4. Vincent DeFrancis, *Protecting the Child Victim of Sex Crimes Committed by Adults*, Final Report, (Denver: The American Humane Association, Children's Division, 1969), p.164.
5. T. C. N. Gibbens and J. Prince, *Child Victims of Sex Offenses*, (London: The Institute for the Study and Treatment of Delinquency, October 1963), p 16.
6. Uniform Crime Reports, Federal Bureau of Investigation.
7. Menachem Amir, *Patterns in Forcible Rape* (Chicago: University of Chicago Press, 1971).
8. Diana E. H. Russell, Ph D., *Rape, Child Sexual Abuse, Sexual Harassment in the Workplace: An Analysis of the Prevalence, Causes, and Recommended Solutions*, March 1982, p 16 (Report provided by the National Center for the Prevention and Control of Rape, U.S. Department of Health and Human Services.)
9. M. Joan McDermott, *Rape Victimization in 26 Cities*, (U.S. Department of Justice, Law Enforcement Assistance Administration, National Criminal Justice Information and Statistics Service, 1979), p 5
10. *Rape Victimization in 26 Cities*, p 46
11. *Rape Victimization in 26 Cities*, p 10

Religious Coalition for Abortion Rights

Educational Fund, Inc.
100 Maryland Avenue, N.E. Washington, D.C. 20002
(202) 543-7032

WESTMINSTER PRESBYTERIAN CHURCH
1275 Boswell, Topeka, Kansas 66604

February 2, 1989

TO: Senate Federal and State Affairs Committee
RE: Senate Parental Consent Bill

As a Presbyterian clergywoman I am opposed to any bill which insists that pregnant teenagers need the consent of their parents/guardians before obtaining an abortion. Too often such teenagers are already estranged from their families. What they need in a crisis like this is support not hassle, loving care not anger and judgment.

Please do not pass such a bill.

Sincerely yours,

Ann Richards

PASTOR
William C. Gannaway, Jr.

ASSOCIATE PASTOR
Ann Richards

February 2, 89

To Senate Federal and State Committee

The bill requiring parental consent to abortion for girls under the age of 18 seems to me to be rather short sighted. It appears to address those fortunate girls who have parents they can readily turn to for help.

In reality, many of these children, caught in this situation, are poor and come from homes where there is a single, often already harassed, parent. Even with "normal" adolescents communication about secret problems are not easily shared with parents. Can we expect 13, 14, 15 etc. children to be more communicative about a problem which is so frightening to many perhaps loaded with shame and fear. This especially when the parental response might be angry, and far from helpful to the child.

I think of the 15 year old girl of my acquaintance who was caught in this dilemma with divorced parents who were not available to her for any helpful care. She committed suicide which had a bad ripple effect on her fellow students, including some "copy cat" suicidal attempts.

The lack of thoughtful wisdom of this bill can, it seems to me, precipitate a return to the pre 1973 days - self induced abortion attempts, under ground illegal abortions, suicide, runaway children. The bill seems to express a naive, unworldly and very unrealistic knowledge of society as it really is.

(Mrs) Beth Sheffel
Topeka, Kansas

American Baptist Churches, U.S.A.

General Board, 1981

Abortion presents us with a dilemma. It places in tension several of our historic commitments:

- Our commitment to the sanctity of human life.
- Our commitment to freedom of conscience and self-determination.
- Our commitment to the First Amendment guarantee of the free exercise of religion.

. . . Public law, enacted by human reason and enforced by state power, can never fully express the moral sensitivity of Christian love. We are therefore grateful for the Constitutional protection of religious freedom which guarantees our right to make personal moral decisions based on religious principles. The First Amendment affords each citizen freedom from the religious scruples of others and freedom to follow the religious dictates of conscience.

. . . We recognize that a human embryo is the physical beginning of life which through a God-given process of development becomes a person. Choosing to terminate this developmental process is a crucial decision to be made only when all other possible alternatives will lead to greater destruction of human life and spirit.

. . . We recognize that Christian persons of sensitive and informed conscience find themselves on differing sides of the abortion issue. In our Baptist tradition the integrity of each person's conscience must be respected; therefore, we believe that abortion must be a matter of responsible, personal decision.

*American Ethical Union

Annual Assembly, 1973 (reaffirmed 1979)

The American Ethical Union wishes to express its disapproval of efforts to amend or circumvent the United States Constitution in such manner as would nullify or impede the decision of the United States Supreme Court regarding abortion.

We further believe that denial of Federal or State funds for abortion where they are provided for other medical services discriminates against poor women and abridges their freedom to act according to their conscience. The American Ethical Union supports the expansion of governmental family planning services as a means of reducing the need for abortion. (1979)

*American Ethical Union, National Service Conference

1976 (reaffirmed 1979)

We believe in the right of each individual to exercise his or her conscience; every woman has a civil and human right to determine whether or not to continue her pregnancy. We support the decision of the United States Supreme Court of January 22, 1973 regarding abortion.

We believe that no religious belief should be legislated into the legal structure of our country; the state must be neutral in all matters related to religious concepts. (1976)

American Friends Service Committee

1970

On religious, moral and humanitarian grounds, therefore, we arrived at the view that it is far better to end an unwanted pregnancy than to encourage the evils resulting from forced pregnancy and childbirth. At the center of our position is a profound respect and reverence for human life, not only that of the potential human being who should never have been conceived, but that of the parent and the other children in the human community.

Believing that abortion should be subject to the same regulations and safeguards as those governing other medical and surgical procedures, we urge the repeal of all laws limiting either the circumstances under which a woman may have an abortion or the physician's freedom to use his or her best professional judgement in performing it.

*American Humanist Association

Annual Conference, 1977

We affirm the moral right of women to become pregnant by choice and to become mothers by choice. We affirm the moral right of women to freely choose a termination of unwanted pregnancies. We oppose actions by individuals, organizations and governmental bodies that attempt to restrict and limit the woman's moral right and obligation of responsible parenthood.

*American Jewish Congress

Biennial Convention, 1982

The American Jewish Congress has long recognized that

HOUSE FEDERAL & STATE AFFAIRS Attachment No. 21A 3/28/89

reproductive freedom is a fundamental right, grounded in the most basic notions of personal privacy, individual integrity and religious liberty. Jewish religious traditions hold that a woman must be left to her own conscience and God to decide for herself what is morally correct. The fundamental right to privacy applies to contraception to avoid unintended pregnancy as well as to freedom of choice on abortion to prevent an unwanted birth.

In a climate of intensified efforts by the present Administration and by certain members of Congress to inject the government into these most personal decisions, we restate our opposition to any vehicle that would threaten a woman's access to abortion. We also reiterate our support for public funding of abortions so that the economically disadvantaged can exercise their right of choice along with the more affluent.

. . . The American Jewish Congress, therefore,

- Affirms its support for continuation of the national commitment to federally subsidized national family planning services;
- While encouraging parental involvement concerning family planning services for minors, opposes any efforts that would require parental notification or consent;
- Reaffirms its unwavering support for the Supreme Court decisions, including *Roe v. Wade* and *Doe v. Bolton*, which recognize that the Constitution guarantees women freedom of choice with respect to abortion.
- Reaffirms its opposition to all efforts—whether through Constitutional amendment, simple legislative fiat, or attacks on the jurisdiction of the courts—that would restrict or burden a woman's right to choose to terminate a pregnancy or that would compromise a physician's choice of treatment in the care of a pregnant woman for medical or surgical conditions which have no relationship to the pregnancy but which could adversely affect the fetus;
- Rejects all efforts to undermine the role of the judiciary and violate the principle of separation of powers with respect to reproductive freedom; and
- Rejects any efforts that would deny individual religious liberty to either clergy or lay people who, by virtue of their sincerely-held religious beliefs, may differ in interpreting when to attribute "personhood" to prenatal life.

*B'nai B'rith Women

Biennial Convention, 1976 (reaffirmed 1978)

Although we recognize there is a great diversity of opinion on the issue of abortion, we also underscore the fact that every woman should have the legal choice with respect to abortion consistent with sound medical practice and in accordance with her conscience.

We wholeheartedly support the concepts of individual freedom of conscience and choice in the matter of abortion. Any Constitutional amendment prohibiting abortion would deny to the population at large their basic rights to follow their own teachings and attitudes on this subject which would threaten First Amendment rights. Additionally, legislation designed to ban federal funding for health facilities for abortions is discriminatory, since it would affect disadvantaged women, who have no access to expensive private institutions.

Catholics for a Free Choice

1975

We affirm the religious liberty of Catholic women and men and those of other religions to make decisions regarding their own fertility free from church or governmental intervention in accordance with their own individual conscience.

Central Conference of American Rabbis

Annual Convention, 1975

We believe that in any decision whether or not to terminate a pregnancy, the individual family or woman must weigh the tradition as they struggle to formulate their own religious and moral criteria to reach their own personal decision. . . . We believe that the proper focus for formulating these religious and moral criteria and for making this decision must be the individual family or woman and not the state or other external agency.

. . . As we would not impose the historic position of Jewish teaching upon individuals nor legislate it as normative for society at large, so we would not wish the position of any other group imposed upon the Jewish community or the general population.

. . . We affirm the legal right of a family or a woman to determine on the basis of its or her own religious moral values whether or not to terminate a particular pregnancy. We oppose all Constitutional amendments that would abridge or circumscribe this right.

Central Conference of American Rabbis

Annual Convention, 1984

WHEREAS the so-called Hyde Amendment restricts the use of Medicaid funds for abortion; and other amendments have had a similar effect in other federal programs, so that a woman dependent on government health care cannot obtain a medically necessary abortion even if she is the victim of rape or incest or if her health is seriously jeopardized by continuation of the pregnancy; and

WHEREAS these restrictions have created greater health risks for poor women who have conscientiously chosen abortion but must delay the procedure while seeking private funds to pay for it;

THEREFORE BE IT RESOLVED that:

- The Central Conference of American Rabbis calls upon the Congress to defeat the Hyde Amendment this year, and
- The Central Conference of American Rabbis supports the Fazio-Green legislation which would eliminate such restrictions in the authorization for all federal governmental programs.

*Christian Church (Disciples of Christ)

General Assembly, 1975

WHEREAS, the Christian Church (Disciples of Christ) has proclaimed that in Christ, God affirms freedom and responsibility for individuals, and

WHEREAS, legislation is being introduced into the U.S. Congress which would embody in law one particular opinion concerning the morality of abortion . . .

THEREFORE BE IT RESOLVED, that the General Assembly of the Christian Church (Disciples of Christ) . . .

- Affirm the principle of individual liberty, freedom of individual conscience, and sacredness of life for all persons.
- Respect differences in religious beliefs concerning abortion and oppose, in accord with the principle of religious liberty, any attempt to legislate a specific religious opinion or belief concerning abortion upon all Americans.
- Provide through ministry of the local congregation, pastoral concern, and nurture of persons faced with the responsibility and trauma surrounding undesired pregnancy.

*Episcopal Church (The)

General Convention, 1982

RESOLVED:

- The beginning of new human life, because it is a gift of the power of God's love for his people, and thereby sacred, should not and must not be undertaken unadvisedly or lightly but in full accordance of the understanding for which this power to conceive and give birth is bestowed by God.
- Such understanding includes the responsibility for Christians to limit the size of their families and to practice responsible birth control. Such means for moral limitations do not include abortion for convenience.
- The position of this Church, stated at the 62nd General Convention of the Church in Seattle in 1967, which declared support for the "termination of pregnancy" particularly in those cases where "the physical or mental health of the mother is threatened seriously, or where there is substantial reason to believe that the child would be born badly deformed in mind or body, or where the pregnancy has resulted from rape or incest" is reaffirmed. Termination of pregnancy for these reasons is permissible.
- In those cases where it is firmly and deeply believed by the person or persons concerned that pregnancy should be terminated for causes other than the above, members of this Church are urged to seek the advice and counsel of a Priest of this Church, and, where appropriate, penance.
- Whenever members of this Church are consulted with regard to proposed termination of pregnancy, they are to explore, with the person or persons seeking advice and counsel, other preferable courses of action.
- The Episcopal Church expresses its unequivocal opposition to any legislation on the part of the national or state governments which would abridge or deny the right of individuals to reach informed decisions in this matter and to act upon them.

*Episcopal Women's Caucus

Annual Meeting, 1978

We are deeply disturbed over the increasingly bitter and divisive battle being waged in legislative bodies to force continuance of unwanted pregnancies and to limit an American woman's right to abortion.

We believe that all should be free to exercise their own consciences on this matter and that where widely differing views are held by substantial sections of the American religious community, the particular belief of one religious body should not be forced on those who believe otherwise.

To prohibit or severely limit the use of public funds to pay for abortions abridges and denies the right to an abortion and discriminates especially against low income, young and minority women.

*Federation of Reconstructionist Congregations and Havurot

1981

Although the Jewish tradition regards children as a blessing, a gift of life itself, the tradition permits the abortion of an unborn child in order to safeguard the life and physical and mental health of the mother. The rabbis did not take a consistent stand on the question of whether a fetus resembles "a person." They did not think it possible to arrive at a final theoretical answer to the question of abortion, for that would mean nothing less than to be able to define convincingly what it means to be human.

We recognize that abortion is a tragic choice. Any prospective parent must make an agonizing decision between competing claims—the fetus, health, the need to support oneself and one's family, the need for time for a marriage to stabilize, responsibility for other children and the like. Some of us consider abortion to be immoral except under the most extraordinary circumstances. Yet we all empathize with the anguish of those who must make the decision to abort or not to abort.

Lutheran Church in America†

Biennial Convention, 1970 (reaffirmed 1978)

In the consideration of induced abortion the key issue is the status of the unborn fetus. Since the fetus is the organic beginning of human life, the termination of its development is always a serious matter. Nevertheless, a qualitative distinction must be made between its claims and the rights of a responsible person made in God's image who is in living relationships with God and other human beings. This understanding of responsible personhood is congruent with the historical Lutheran teaching and practice whereby only living persons are baptized.

On the basis of the evangelical ethic, a woman or couple may decide responsibly to seek an abortion. Earnest consideration should be given to the life and total health of the mother, her responsibilities to others in her family, the stage of development of the fetus, the economic and psychological stability of the home, the laws of the land, and the consequences for society as a whole.

Persons considering abortion are encouraged to consult with their physicians and spiritual counselors. This church upholds its pastors and other responsible counselors, and persons who conscientiously make decisions about abortion.

(T)he social statement opposes abortion on demand, since many factors must be considered in the decision . . . (T)he statement opposes the use of abortion as an alternative form of contraception. (1978)

---

†The Lutheran Church in America recently merged with the American Lutheran Church and the Association of Evangelical Lutheran Churches to become the Evangelical Lutheran Church in America which will be studying the issues before adopting positions of its own.

*Moravian Church in America

Northern Province, 1974

WHEREAS: the Moravian Church believes in the sacredness of life and in the quality of life, and

WHEREAS: we believe that abortion should not be used as a method of birth control nor as a means of controlling population, and

WHEREAS: Christian faith calls us to affirm the freedom of persons as well as the sanctity of life, therefore be it

RESOLVED: (9) that abortion should be a matter of responsible personal decision, with continuing counseling provided if desired, and be it further

RESOLVED: (10) that alternatives to abortion be given careful consideration in the perspective of possibly bringing mercy to a difficult situation. These alternatives include: (a) adoption, (b) single parenthood, (c) continued pregnancy for a married couple confronted with an unplanned pregnancy, (d) marriage for a single woman, or (e) temporary foster care, and be it further

RESOLVED: (11) that abortion be accepted as an option only where all other possible alternatives will lead to greater destruction of human life and spirit.

WHEREAS: neither science nor religion has claimed to fully understand the mystery of life or reached a decision as to when the life of an individual begins, and

WHEREAS: the Bible does not speak directly to the matter of abortion and the Moravian Church has refrained from being dogmatic when a biblical position was not clear, and

WHEREAS: there are circumstances under which the completion of an unwanted pregnancy may bring physical and/or emotional problems to the child and/or its parent(s), therefore be it

RESOLVED: (12) that members of the Moravian Church view abortion in the perspective of possibly bringing mercy to a difficult situation, and be it further

RESOLVED: (13) that this synod recommend that any person(s) considering abortion as a possible solution seek qualified medical and spiritual counsel, and be it further

RESOLVED: (14) that the individual(s) who chooses an alternative to abortion be offered adequate counseling during pregnancy and following delivery.

WHEREAS: it is the mission of the church to minister to persons in need, therefore be it

RESOLVED: (15) that the Moravian Church encourage its members to accept with empathy persons who are dealing with an unwanted pregnancy, and in accord with convictions assist in all possible tangible ways.

WHEREAS: "the Supreme Court decisions in January, 1973, clarified the legal context. The Court's action does not lessen, but increases, the responsibility of the churches to understand the circumstances in which the need for abortion arises; to make serious efforts to find solutions to the problems which have created this need; to struggle with the conflicting moral issues which this unique situation presents; and to become better equipped to counsel adequately those who are faced with a decision about abortion," therefore be it

RESOLVED: (16) that Moravian pastors keep abreast of current developments in this field, and be it further

RESOLVED: (17) that Moravian pastors be alert and responsive to opportunities for counseling with persons considering abortion, and be it further

RESOLVED: (18) that Moravian pastors support individual(s) in their decision by making referral to qualified agencies and/or physicians if needed, and be it further

RESOLVED: (19) that the Provincial Elders' Conference arrange for seminars on unwanted pregnancy counseling for pastors and other counselors.

WHEREAS: we recognize the freedom of the pastor not to counsel because of personal feelings or bias, and

WHEREAS: we should not fail to minister where ministry is needed and requested, therefore be it

RESOLVED: (20) that pastors who choose not to counsel refer the individual(s) to a qualified colleague or competent counseling service.

WHEREAS: education alone cannot be considered as a panacea for managing behaviors that may lead to problem pregnancy but may reduce the need for abortions, therefore be it

RESOLVED: (21) that the members of the Moravian Church support the Division of Educational Ministries implementation of programs of Family Life and Human Development and Human Sexuality that include information on birth control at appropriate levels of maturity.

*National Council of Jewish Women

National Convention, 1969 (reaffirmed 1979, 1982)

The members of NCJW reaffirm the strong commitment "to work to protect every woman's individual right to choose abortion and to eliminate any obstacles that would limit her reproductive freedom."

We believe that those who would legislate to deny freedom of choice compound the problems confronting women who are already condemned by poverty. It is therefore essential that federal and state funding be made available to women in need who choose abortion just as such funding is available for other medical procedures.

We decry the fact that poor and young women must bear the major brunt of anti-abortion rights measures, and call upon all public officials to support and protect the right of every American woman to choose or reject the act of childbearing. (1979)

*National Federation of Temple Sisterhoods

Biennial Assembly, 1975

NFTS affirms our strong support for the right of a woman to obtain a legal abortion, under conditions now outlined in the 1973 decision of the United States Supreme Court. The Court's position established that during the first two trimesters, the private and personal decision of whether or not to continue to term an unwanted pregnancy should remain a matter of choice for the woman; she alone can exercise her ethical and religious judgement in this decision. Only by vigorously supporting this individual right to choose can we also ensure that every woman

may act according to the religious and ethical tenets to which she adheres.

*North American Federation of Temple Youth

1981

BE IT RESOLVED

- That NFTY continue to strongly support the right of a woman to choose to obtain a safe, legal abortion, and
- That NFTY oppose any Constitutional amendment that could lead to the restriction of that right.

*NA'AMAT USA

Biennial Convention, 1983

Reproductive choice must be recognized as a matter of individual conscience outside the realm of government intrusion. We oppose attempts—whether by Constitutional amendment, legislation, judicial review or government regulation—to restrict women's access to safe and legal abortion, to bar financial assistance to women seeking abortion or to violate the confidentiality of family planning services.

We welcome decisions of the Supreme Court and other branches of the federal judiciary upholding women's rights: particularly opinions barring restrictions on women's right to abortion, and rulings against sex discrimination in employer-sponsored retirement plans and upholding the privacy of federally-funded family planning centers.

We must remain alert to defeat efforts in Congress to undermine the jurisdiction of federal courts on Constitutional matters relating to moral and social questions.

*Presbyterian Church, U.S.A.

General Assembly, 1983 (reaffirmed 1985, 1987)

Any decision for an abortion should be made as early as possible, generally within the first trimester of pregnancy, for reasons of the woman's health and safety. Abortions later in pregnancy are an option particularly in the case of women of menopausal age who do not discover they are pregnant until the second trimester, women who discover through fetal diagnosis that they are carrying a fetus with a grave genetic disorder, or women who did not seek or have access to medical care during the first trimester. At the point of fetal viability the responsibilities set before us in regard to the fetus begin to shift. Prior to viability, human responsibility is stewardship of life-in-development under the guidance of the Holy Spirit. Once the fetus is viable, its potential for physically autonomous human life means that the principle of inviolability can be applied.

. . . It is a tragic sign of the church's sinfulness that our propensity to judge rather than stand with persons making such decisions too often means that persons in need must bear the additional burden of isolation. It would be far better if the person concerned could experience the strength that comes from shared sensitivity and caring. The church is called to be the loving and supportive community within whose life persons can best make decisions in conformity with God's purposes revealed in Jesus Christ.

. . . The church's position on public policy concerning abortion should reflect respect for other religious traditions and advocacy for full exercise of religious liberty. The Presbyterian Church exists within a very pluralistic environment. Its own members hold a variety of views. It is exactly this pluralism of beliefs which leads us to the conviction that the decision regarding abortion must remain with the individual, to be made on the basis of conscience and personal religious principles, and free from governmental interference.

Consequently, we have a responsibility to work to maintain a public policy of elective abortion, regulated by the health code, not the criminal code. The legal right to have an abortion is a necessary prerequisite to the exercise of conscience in abortion decisions. Legally speaking, abortion should be a woman's right because, theologically speaking, making a decision about abortion is, above all, her responsibility.

As Presbyterians and U.S. citizens we have a responsibility to guarantee every woman the freedom of reproductive choice. We affirm the intent of existing law in the United States regarding abortion; protecting the pregnant woman. Medical intervention should be made available to all who desire and qualify for it, not just to those who can afford preferential treatment.

. . . Thus the 195th General Assembly (1983):

- Urges Presbyterian congregations and their individual members to:
  - Provide a supportive community in which such decisions can be made in a setting of care and concern.
  - Respect the difficulty of making such decisions.
  - Affirm women's ability to make responsible decisions, whether the choice be to abort or to carry the pregnancy to term.
  - Protect the privacy of individuals involved in contraception and abortion decisions.
- Affirms the church's commitment to minimize the incidence of abortion and encourages sexuality education and the use of contraception to avoid unintentional pregnancies, while recognizing that contraceptives are not absolutely effective . . .
- Recognizes that negative social attitudes toward women cast doubt on women's ability to make moral decisions and urges ministers and congregations to work to counter these underlying social attitudes and affirm the dignity of women.
- Recognizes that children may be born who are either unwanted or seriously handicapped and affirms the church's ongoing responsibility to provide supportive services to families in these situations and to help find appropriate institutional care and adoptive services where needed.
- Affirms the 1973 *Roe v. Wade* decision of the Supreme Court which decriminalized abortion during the first two trimesters of pregnancy . . .
- Urges the Presbyterian Church . . . to model the just and compassionate community by:
  - Opposing adoption of all measures which would serve to restrict full and equal access to contraception and abortion services to all women, regardless of race, age, and economic standing.
  - Working actively to restore public funding by federal, state, and local governments for the availability of a full range of reproductive health services for the medically indigent . . .
  - Providing continuing support for women who, having made an abortion decision, may have doubts as to the wisdom of

their choice, or having delivered a child are not able to cope with the separation of adoption or the responsibilities of child care.

. . . The 197th General Assembly (1985):

- Reaffirms the position taken by the 195th General Assembly (1983);
- We affirm that abortion should not be used as a method of birth control;
- We affirm our support for the Religious Coalition for Abortion Rights as the most effective means for making our concern about keeping the availability of abortion services safe and legal;
- We are in agreement (with) the protest against violence at abortion clinics and harassment of persons staffing clinics and persons seeking abortions.

The 199th General Assembly (1987):

- Reaffirm(s) its freedom of choice position in relation to reproductive rights.

Reorganized Church of Jesus Christ of Latter Day Saints

1974 (reaffirmed 1980)

We affirm that parenthood is partnership with God in the creative processes of the universe.

We affirm the necessity of parents to make responsible decisions regarding the conception and nurture of their children.

We affirm a profound regard for the personhood of the woman in her emotional, mental, and physical health; we also affirm a profound regard and concern for the potential of the unborn fetus.

We affirm the inadequacy of simplistic answers that regard all abortions as murder, or, on the other hand, regard abortion only as a medical procedure without moral significance.

We affirm the right of the woman to make her own decision regarding the continuation or termination of problem pregnancies. Preferably, this decision should be made in cooperation with her companion and in consultation with a physician, qualified minister, or professional counselor . . .

We affirm the need for skilled counselors being accessible to the membership of the church to assist persons in their struggle with issues centering in human sexuality, responsible parenthood, and wholeness of family life.

*Union of American Hebrew Congregations

Biennial Convention, 1975 (reaffirmed 1981)

The UAHC reaffirms its strong support for the right of a woman to obtain a legal abortion on the Constitutional grounds enunciated by the Supreme Court in its 1973 decision . . . This rule is a sound and enlightened position on this sensitive and difficult issue, and we express our confidence in the ability of the woman to exercise her ethical and religious judgment in making her decision.

The Supreme Court held that the question of when life begins is a matter of religious belief and not medical or legal fact. While recognizing the right of religious groups whose beliefs differ from ours to follow the dictates of their faith in this matter, we vigorously oppose the attempts to legislate particular beliefs of those groups into the law which governs us all. This is a clear violation of the First Amendment. Furthermore, it may undermine the development of interfaith activities. Mutual respect and tolerance must remain the foundation of interreligious relations.

We oppose those riders and amendments to other bills aimed at halting Medicaid, legal counseling and family services in abortion-related activities. These restrictions severely discriminate against and penalize the poor who rely on governmental assistance to obtain the proper medical care to which they are legally entitled, including abortion.

We are opposed to attempts to restrict the right to abortion through Constitutional amendments. To establish in the Constitution the view of certain religious groups on the beginning of life has legal implications far beyond the question of abortion. Such amendments would undermine Constitutional liberties which protect all Americans.

*Unitarian Universalist Association

General Assembly, 1987

RIGHT TO CHOOSE

BECAUSE Unitarian Universalists believe that the inherent worth and dignity of every person, the right of individual conscience, and respect for human life are inalienable rights due ever person; and that the personal right to choose in regard to contraception and abortion is an important aspect of these rights; and

BECAUSE we believe in tolerance and compassion for persons whose choices may differ from our own; and

BECAUSE we believe not only in the value of life itself but also in the quality of life; and

WHEREAS pain, suffering, and loss of life were widespread prior to the legalization of abortion in 1973 by the U.S. Supreme Court (*Roe v. Wade*) and the 1969 amendments to the Criminal Code of Canada; and

WHEREAS the issue of abortion is morally complex, abortion must remain a legal option; and

WHEREAS attempts are now being made to restrict access to birth control and abortion by overriding individual decisions of conscience, and attacks in legislatures, courts, and the streets often result in depriving poor women of their right to medical care; and such legislation is an infringement of the principle of separation of church and state in that it tries to enact private morality into public law; and

WHEREAS there is movement to re-criminalize abortion both for women and their health-care providers which could bring back dangerous alternatives to clinically safe abortions;

THEREFORE BE IT RESOLVED that the 1987 General Assembly of the Unitarian Universalist Association reaffirms its historic position, supporting the right to choose contraception and abortion as legitimate aspects of the right to privacy; and

BE IT FURTHER RESOLVED that:

1. individual Unitarian Universalists educate themselves, their congregations, and the public about the new moral understandings emergent in the works of feminist theologians and social ethicists; and
2. Unitarian Universalists oppose any move to deny or restrict the distribution of government funds as a means of restricting

access to full contraceptive and abortion counseling and/or services, at home or abroad; and

3. Unitarian Universalists actively oppose all legislation, regulations and administrative action, at any level of government, intended to undermine or circumvent the *Roe v. Wade* decision; and
4. Unitarian Universalists communicate their opposition to such attempts to their legislative representatives and to the electorate; and
5. Unitarian Universalists expose and oppose bogus clinics and other tactics that infringe on the free exercise of the right to choose; and
6. Unitarian Universalists promote legislation funding safe abortions for low-income women; and
7. Individual Unitarian Universalists, congregations, and the Unitarian Universalist Association open discussion with those of different mind, and seek opportunities to work productively from shared values to promote family planning and education for responsible sex; and

BE IT FINALLY RESOLVED that we reaffirm the right to choose contraception and abortion as a legitimate expression of our constitutional rights.

*Unitarian Universalist Women's Federation

Biennial Convention, 1975 (reaffirmed 1979, 1981)

The Unitarian Universalist Women's Federation reaffirm(s) the right of any woman of any age or marital or economic status to have an abortion at her own request upon consultation with her physician and urges all Unitarian Universalists in the United States and all Unitarian Universalist societies in the United States to resist through their elected representatives the efforts now under way by some members of the Congress of the United States to curtail their right by means of a Constitutional amendment or other means.

*United Church of Christ

General Synod 16, 1987

SEXUALITY AND ABORTION: A FAITHFUL RESPONSE

WHEREAS, Scripture teaches us that all human life is precious in God's sight and teaches the importance of personal moral freedom; and

WHEREAS, previous General Synods, beginning in 1971, have considered the theological and ethical implications of abortion, and have supported its legal availability, while recognizing its moral ambiguity and urging that alternatives to abortion always be fully and carefully considered; and

WHEREAS, women and men must make decisions about unplanned or unwanted pregnancies that involve their physical, emotional, and spiritual well-being; and

WHEREAS, the United States leads nearly all other developed nations of the world in pregnancy, abortion, and childbearing rates for teen-agers; and

WHEREAS, access to birth control is being jeopardized by decreases in funding for human services, including family planning programs, and certain groups continue their efforts to reverse the *Roe v. Wade* decision of 1973, which affirms the right to choose a safe and legal abortion; and

WHEREAS, abortion is a social justice issue, both for parents dealing with pregnancy and parenting under highly stressed circumstances, as well as for our society as a whole; and

WHEREAS, previous General Synods have called upon the church to provide programs of counseling and education about the meaning and nature of human life, sexuality, responsible parenthood, population control, and family life;

THEREFORE, BE IT RESOLVED, that the Sixteenth General Synod:

1. affirms the sacredness of all life, and the need to protect and defend human life in particular;
2. encourages persons facing unplanned pregnancies to consider giving birth and parenting the child, or releasing the child for adoption, before abortion;
3. upholds the right of men and women to have access to adequately funded family planning services, and to safe, legal abortions as one option among others;
4. affirms the need for adequately funded support systems, including health and day care services, for those who choose to raise children;
5. urges that resources on human sexuality being prepared by the Board for Homeland Ministries be used widely in the churches, and that the resolutions of previous General Synods on sexuality issues be distributed and studied as part of these resources;
6. urges the United Church of Christ, at all levels, to provide support, resources, and information to persons facing unplanned pregnancies, including counseling of persons who choose to have abortions;
7. urges the United Church of Christ, at all levels, to provide educational resources and programs to persons, especially young persons, to help reduce the incidence of unplanned and unwanted pregnancies, and to encourage responsible approaches to sexual behavior;
8. urges pastors, members, local churches, conferences, and instrumentalities to oppose actively legislation and amendments which seek to revoke or limit access to safe and legal abortions.

*United Methodist Church

General Conference, 1976, 1984

The beginning of life and the ending of life are the God-given boundaries of human existence. While individuals have always had some degree of control over when they would die, they now have the awesome power to determine when, and even whether, new individuals will be born. Our belief in the sanctity of unborn human life makes us reluctant to approve abortion. But we are equally bound to respect the sacredness of life and well-being of the mother for whom devastating damage may result from an unacceptable pregnancy. In continuity with past Christian teaching, we recognize tragic conflicts of life with life that may justify abortion, and in such cases support the legal option of abortion under proper medical procedures. We call all Christians to a searching and prayerful inquiry into the sorts of conditions that may warrant abortion. Governmental laws and regulations do not provide all the guidance required by the informed Christian conscience. Therefore a decision concerning abortion should be made only after thoughtful and prayerful consideration by the parties involved, with medical, pastoral, and other appropriate counsel. — *Social Principles*, 1984

When an unacceptable pregnancy occurs, a family, and most of all the pregnant woman, is confronted with the need to make a

difficult decision. We believe that continuance of a pregnancy which endangers the life or health of the mother, or poses other serious problems concerning the life, health, or mental capability of the child to be, is not a moral necessity. In such a case, we believe the path of mature Christian judgement may indicate the advisability of abortion. We support the legal right to abortion as established by the 1973 Supreme Court decisions. We encourage women in counsel with husbands, doctors, and pastors to make their own responsible decisions concerning the personal or moral questions surrounding the issue of abortion. — *Resolution on Responsible Parenthood,* 1976

United Methodist Church, National Youth Ministry Organization

Biennial Convocation, 1983

One of the greatest and most divisive social issues battles of our time is being waged in the halls of government and in special interest elections campaigns.

Freedom of choice in problem pregnancies must be based on the moral judgment of the involved individuals.

Where there is no consistent medical, ethical, or theological consensus, the U.S. Constitution should not be used to force one theological view on all citizens who may believe otherwise.

Human Life Amendments to the U.S. Constitution or U.S. statutes which state that full human personhood begins at conception and that (an) embryo newly formed must be protected as a human person deny the religious freedom of those with differing views.

The U.S. Supreme Court decision of *Roe v. Wade* in 1973 guarantees a woman the right to make a personal decision regarding termination of a pregnancy. Any amendment to deconstitutionalize the issue of abortion and invalidate the 1973 decision could set a precedent for endangering all our civil liberties...

As the National Youth Ministry Convocation:

- We affirm our Social Principles statement on abortion. (See above.)
- We affirm safeguarding the U.S. Supreme Court decision that allows legal, medically safe abortions for women.
- We recognize each woman's individual freedom of choice but we deplore abortion as a means of birth control.
- We affirm the necessity for responsible decision-making in human sexuality and parenting.

*United Synagogue of America

Biennial Convention, 1975

"In all cases 'the mother's life takes precedence over that of the foetus' up to the minute of birth. This is to us an unequivocal principle. A threat to her basic health is moreover equated with a threat to her life. To go a step further, a classical responsum places danger to one's psychological health, when well established, on an equal footing with a threat to one's physical health." — 1967

(A)bortions, "though serious even in the early stages of conception, are not to be equated with murder, hardly more than is the decision not to become pregnant."

The United Synagogue affirms once again its position that "abortions involve very serious psychological, religious, and moral problems, but the welfare of the mother must always be our primary concern" and urges its congregations to oppose any legislative attempts to weaken the force of the Supreme Court's (1973) decisions through Constitutional amendments or through the deprivation of Medicaid, family services and other current welfare services in cases relating to abortion.

Women of the Episcopal Church

Triennial Meeting, 1973

WHEREAS the Church stands for the exercise of freedom of conscience by all and is required to fight for the right of everyone to exercise that conscience,

THEREFORE, BE IT RESOLVED that the decision of the U.S. Supreme Court allowing women to exercise their conscience in the matter of abortion be endorsed by the Church.

*Women's League for Conservative Judaism

Biennial Convention, 1974

National Women's League believes that freedom of choice as to birth control and abortion is inherent in the civil rights of women.

We believe that all laws infringing on these rights should be repealed, and we urge our Sisterhoods to work for the implementation of this goal.

*Young Women's Christian Association of the U.S.A.

National Convention, 1973 (reaffirmed 1979, 1982)

In line with our Christian Purpose we, in the YWCA, affirm that a highly ethical stance is one that has concern for the quality of life of the living as well as for the potential of life. We believe that a woman also has a fundamental, Constitutional right to determine, along with her personal physician, the number and spacing of her children. Our decision does not mean that we advocate abortion as the most desirable solution to the problem, but rather that a woman should have the right to make the decision.

We Affirm represents excerpts from statements about abortion rights as expressed by national religious organizations.

**Denotes faith groups/religious organizations that have one or more boards/agencies/units holding membership in the Religious Coalition for Abortion Rights.*

RELIGIOUS COALITION FOR ABORTION RIGHTS EDUCATIONAL FUND
100 Maryland Avenue, NE
Washington, DC 20002
202/543-7032

1/88

It would be unthinkable for a school counselor or school nurse to counsel a minor to by-pass their parents if they wish to have any other type of surgery. The fact is, it is the responsibility of a school counselor or nurse to notify parents or guardians of any medical treatment or medication required for a minor.

For a school counselor or nurse to instruct a minor on how to avoid telling her parents of a pregnancy or of her intent to have an abortion is an invasion of family privacy and undermines the family unit.

Senate bill 91 hands over the awesome responsibility and the tax burden of all pregnant minors to the state through the involvement of schools, counselors, social workers and the courts.

Minors must be held accountable for their sexual indiscretions through the guidance of parents, not the state. Pregnant teens and their parents must assume all medical and financial responsibility for such pregnancies. If they are not allowed to take responsibility for their families we will see a multitude of pregnant girls going through the judicial system. Do the taxpayers of Kansas want such a financial burden? I for one do not.

For the above reasons I find the original bill unnecessary and the amendments totally unacceptable.