Approved: 5/12/97
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Tim Carmody at 10:30 a.m. on April 3, 1997 in Room 519-

-S of the Capitol.

All members were present except: Representative Mayans (excused)
Representative Sawyer (excused)

Committee staff present: Jerry Ann Donaldson, Legislative Research Department
Mike Heim, Legislative Research Department
Jill Wolters, Revisor of Statutes
Jan Brasher, Committee Secretary

Conferees appearing before the committee: Peggy Jarman, ProChoice Action League
Monica Neff, Planned Parenthood
Written testimony was provided by: Kansans for Life, Concerned Women for America
Arthur W. Solis ,ACOG, Rabbi Lawrence P. Karol,
Reverend George T. Gardner, Ellen Brown, Planned Parenthood
Carla Mahony, ACLU,Jana Gryder, Kansas NOW

Others attending: See attached list

The Chair called the meeting to order at 10:30 a.m. in room 519-S. The Chair announced that the Committee will be meeting in room 519-S until 1:15 p.m. and then will reconvene in room 254-E at 1:30 p.m.

The Chair stated that the Committee will consider SB 234 and since this bill came over late from the Senate, information packets are provided for each Committee member containing testimony of those who testified during the Senate hearings. The written testimony in support of SB 234 was provided by the following: Kansans for Life (Attachment 1); Concerned Women for America (Attachment 2); A paper titled, "The Partial Birth Abortion (Attachment 3);" Arthur W. Solis (Attachment 4).

Written testimony in opposition to SB 234 was provided by: ACOG Statement of Policy (Attachment 5); Rabbi Lawrence P. Karol (Attachment 6); Reverend George T. Gardner (Attachment 7); Planned Parenthood, Ellen W. Brown (Attachment 8); Planned Parenthood, Monica Neff(Attachment 9) and (Attachment 10); ProChoice Action League (Attachment 11); ACLU, Carla Mahony (Attachment 12); Jana L. E. Gryder, Kansas NOW (Attachment 13). The Chair noted additional information from Planned Parenthood, ProChoice Action League. The Chair opened the hearing on SB 234.

SB 234: **Prohibiting partial-birth abortions**

The Chair called on Peggy Jarman, ProChoice Action League to testify.

Ms Jarman stated that she was testifying with no position on this bill. The conferee stated that if this legislature deems it is appropriate to ban this procedure, then the Senate version of SB 234 is a good bill. (Attachment 14)

In response to a Committee member's inquiry, the conferee explained how this procedure was performed. Several issues were discussed by Committee members and the conferee regarding the use of this procedure in Kansas and the necessity of this procedure.

Monica Neff, Lobbyist for Planned Parenthood testified in opposition to SB 234. (Attachment 15)

The Committee members discussed with the conferee items contained in the conferee's written testimony and as to whether the conferee had personally talked with a woman who had this procedure performed. In response to Representative Dahl's question concerning the use of certain language in the bill describing partial birth abortion the conferee stated that the language is addressed to physicians not the layman.

A Subcommittee report was presented by Representative Kline, Chairman. Representative Shultz and Representative Pauls. The report (balloon) offered several changes to the Senate bill. Representative Kline reported some of the changes included in the Subcommittee report which changes the bill from an act prohibiting partial-birth abortions to a bill concerning abortions. The language in the balloon would add a new prohibition on abortions after the gestational age of 24 weeks or more. Representative Kline stated that the Subcommittee report added a new exception, drawn from Indiana law, relating to the physical health of the woman. Representative Kline stated that Ohio and Pennsylvania law have similar exceptions and that the language was upheld in the Casey court case. The conferee stated that case that language was used as part of the exception for the definition of a medical emergency. The provisions in the balloon call for documented

referral from another physician not financially associated with the physician performing or inducing the abortion to substantiate that the woman's physical health is at risk. Representative Kline reported that the second exception in the bill concerning deformity of the fetus was deleted in the Subcommittee report. Language concerning four elements of a partial-birth abortion is deleted in the balloon and replaced with, "in which the fetus is partially delivered vaginally and then intentionally killed before completing the delivery." Representative Kline stated that under the Senate's language in many instances there would be no prosecution under the act.

Representative Kline stated that immunity provisions were inserted to protect the woman from being charged with conspiracy to violate this Act. Representative Kline stated that the last portion of the bill relates to the nature of the crime. The language in the balloon also changes the penalties applicable to conviction(s) under this bill. Representative Kline stated that the (f) subsection is a severability clause if any portion of this act is found unconstitutional. (Attachment 16)

A motion was made by Representative Kline to adopt the Subcommittee report as an amendment to SB 234. The motion was seconded by Representative Pauls.

Committee members discussed various portion of the Subcommittee report.

The Chair broke at 1:30 p.m. to go to room 254-E and reconvene at 1:45 p.m.

The Committee members continued to discuss various issues regarding the Subcommittee report.

The motion carries to amend SB 234 by adopting the Subcommittee report with 12 voting in favor and 8 voting in opposition.

Representative Krehbeil made a motion to reinstate the Senate version and add the third exception as proposed by the Subcommittee report, "prevent the serious------etc." The motion was seconded by Representative Ruff.

The motion fails with 8 voting in favor and 11 voting in opposition. Representative Kirk, and Representative Krehbeil voted in favor of the motion.

Representative Krehbeil made a motion to remove the contents of SB 234 and to conceptually amend the provisions of HR 6011 into SB 234.

The Chair advised that if this motion passes there could be questions as to whether it was proper. The Chair ruled that the motion was in order.

The motion fails with a vote of 6 in favor and 11 opposing.

Representative Garner made a motion concerning the definition section to reinsert lines 32-38 (as in the Senate version) except for subsection (e) and insert the Subcommittee language defining a partial birth abortion in place of subsection (e). The motion was seconded by Representative Ruff.

The motion by Representative Garner fails with 8 voting in favor and 11 voting in opposition.

Representative Garner made a motion to add the second exception of physical health of the woman under Subsection b(1) on line 31, making it New subsection 2. The motion was seconded by Representative Ruff. The motion fails with a vote of 8 in favor and 11 opposing.

A motion was made by Representative Kline and seconded by Representative Powell to recommend SB 234 favorably as amended. The motion carries with 11 voting in favor and 8 voting in opposition.

The Chair announced that the continuation of the hearing on SB 140 would be postponed until 9:00 a.m. on Friday, April 4, 1997. The Chair announced that the Committee will further consider SB 140 on Wednesday, April 9, 1997.

The Chair adjourned the meeting at 2:20 p.m.

The next meeting is scheduled for April 4, 1997.

HOUSE JUDICIARY COMMITTEE GUEST LIST

DATE: 4-3-97

NAME	REPRESENTING
Jamie Corkhill	SRS - CSE
Clyde Graeber	Governors Staff
Matt Goddard	Heartland Community Bankers Assoc.
Marcy Olberding	Intern
Shannon Braden	Intern
Cleta Reniger	Right to Life of Ks
Jason Oldham	OJA
Peggy Jarman	PCAL WHCS
Monica	PPK.
Jeanne L Gawdun	KFL
Bill Layes	KDHR

)ters and
.liates

Abilene
Atchison
Augusta
Brown County
Cheyenne County
Clay Center
Colby
Columbus
Decatur County
Dodge City
Doniphan County
Edwards County
El Dorado
Emporia
Fort Scott
Franklin County
Garden City
Great Bend
Hamilton County
Hanover
Harvey County
Hugoton
Hutchinson
Independence
Iola
Jackson County
Johnson County
Kingman
Larned
Lawrence
Leavenworth
Liberal
Linn County
Manhattan
Marion
McPherson
Miami County
Norton
Olathe
Osage County
Osborne
Ottawa County
Parsons
Phillips County
Pittsburg
Pratt
St. Paul
Salina
Scott City
Smith County
Sublette
Topeka
Ulysses
West Washington County
Wichita
Wyandotte County

Colleges & Universities

(12) Chapters

Regional Offices:

Johnson County KFL
10976 W. 74th Ter.
Shawnee, Ks 66203
Off. (913) 268-8400
FAX (913) 268-8486

Topeka KFL
1005 SW 10th
Topeka, Ks 66604
OFF. (913) 234-3111
FAX. (913) 357-0100

Sedgwick County KFL
2501 E. Central
Wichita, Ks 67214
Off. (316) 687-0088
FAX (316) 687-0303

Kansans for Life

2501 E. Central Ave.
Wichita, Kansas 67214-4511

1-800-928 (5433)
(316) 687- (5433)
FAX (316) 687-0303
E-Mail: Kans4Life@aol.com

March 13, 1997

KANSANS FOR LIFE SUPPORTS SB 234 (PARTIAL-BIRTH ABORTION BAN)

Partial-birth abortions are generally performed in the fifth and sixth months of pregnancy, and sometimes even later. In a partial-birth abortion, the abortionist pulls a living baby feet-first out of the womb into the birth canal, except for the head, which the abortionist purposely keeps lodged just inside the cervix (the opening to the womb). The abortionist punctures the base of the skull with a long surgical scissors or other surgical instrument. He then inserts a catheter into the wound, and removes the baby's brain with a powerful suction machine, after which he completes the delivery of the now-dead baby.

The abortion industry has manufactured a great deal of misinformation about partial-birth abortion, including sweeping assertions that these abortions are very rare and are performed only when the mother's life is in jeopardy and/or the baby suffers from disorders incompatible with sustained life outside the womb. Based on interviews with abortionists and other substantial evidence, at least several thousand partial-birth abortions occur annually in the United States--and the overwhelming majority of these are performed on healthy babies of healthy mothers. Dr. Martin Haskell (the author of a paper with detailed step-by step instructions on how to perform the procedure) has admitted that 80% of the partial-birth abortions he performs are "purely elective."

Recently, Ron Fitzsimmons, the executive director of the National Coalition of Abortion Providers (an organization of 200 abortion clinics) admitted that he "lied through my teeth" when he, along with the entire abortion lobby, told the American people that partial-birth abortions were rarely performed and done only to save women's lives or in the cases of seriously malformed babies. Mr. Fitzsimmons lied because he feared that the truth would hurt the cause of abortion rights. What are we to conclude from this other than the fact that truth means little to people committed to protecting the abortion industry at all costs?

A group of over 400 physician-specialists, including former Surgeon General C. Everett Koop, have formed an organization called the Physicians Ad Hoc Coalition for Truth (PHACT) in an effort to tell the public the truth about partial-birth abortions. They say that "partial-birth abortion is never medically necessary to protect a mother's health or future fertility. On the contrary, this procedure...can pose a significant threat to both her immediate health and future fertility."

SB 234 prevents a gruesome procedure that is more infanticide than abortion from being performed on unborn children in the state of Kansas. Even those who are loathe to bestow personhood on the unborn child should, at the very least, be incensed at a procedure that is so outrageous that we would not allow it to be performed on an animal.

Jeanne L. Gawdun
Lobbyist

House Judiciary
Attachment 1
4/3/97

In Partial Birth Abortion, Why is the Baby Delivered Feet First?

By Alexander F. Metherell, M.D., Ph.D., Laguna Beach, CA.

There are three peculiar things to note about how a partial birth abortion is performed:

1. In a third trimester pregnancy the position of the baby in the womb is more often than not in the vertex, or head down, position. This is why most deliveries are done head first. It is also safest for the baby and the mother. Why then, does the abortionist turn the baby around in the womb into the double footling position where both feet come out first?

2. When a physician operates on a patient the area being operated on is **always brought into view** so that the surgeon can see what he or she is operating on. For example, when doing an appendectomy the abdomen is opened to bring the appendix into view so that it can be safely removed. Why then, does the abortionist turn the baby around by grabbing the baby's leg inside the womb with a clamp and then pull the baby out feet first exposing every part of the baby **except** the head, which is the part of the baby that the procedure is performed upon?

3. It would seem to be far easier, quicker, and humane to suction out the brains of the baby by allowing the head to come out first and then to insert the suction cannula through the top of the baby's head (through the soft fontanel where the baby skull has not joined.) Because the abortionist can see better and the route to the mid brain and brain stem is much more direct, the baby would be essentially dead in one second. This would eliminate the pain and suffering to the baby of having the feet crushed by the clamp used to pull him or her out feet first, and would save the terrible pain of having the surgical scissors thrust into the back of the neck and spread to allow the cannula to be driven up through the base of the skull before the brains can be sucked out. Why go to this extraordinary effort to keep the head inside the mother when the baby is killed? Answer: *Because the baby would scream.*

In the way it is done now, the baby screams as soon as the leg is crushed by the clamp — and continues to scream until the head is evacuated of the brains — but those screams are silent because the lungs and trachea remain full of amniotic fluid. Sound from the vocal chords is not generated until air passes by them. This cannot happen until the head comes out of the birth canal and the baby takes his or her first breath. If the abortionist allows the head to come out first, the screams of the baby would be too psychologically upsetting to the mother and the nurses assisting in the procedure. To eliminate the **sounds** of the screams, the baby is put through increased torture and the mother's womb and birth canal are more traumatized by the process of inserting the forceps into the womb and turning the baby — just to prevent the baby's screams from becoming audible.

2

Dr. Beverly LaHaye
President

CONCERNED WOMEN for AMERICA

Concerned Women for America is the largest women's organization in the U.S. and, as such, has an intense interest in those issues that affect women. One of these issues is the procedure called the " partial birth abortion", a procedure that is performed on pre-born babies beginning at 19-20 weeks gestation. This procedure involves delivery of the body of the infant in a breech position excluding the head. The head is decompressed by inserting scissors into the back of the head and inserting a catheter to suction the contents of the brain. The proponents of this procedure claim that it is necessary to save the life of the mother or to save her reproductive capabilities. Does it make sense, in a life-threatening incident, to opt for a three-day procedure over a simple caesarian section?

In fact, partial birth abortion is not considered standard medical practice according to Dr. Pamela Smith, M.D., a professor of obstetrics at Mt Sinai Hospital's Department of Obstetrics and Gynecology. "To say that these abortions are the best way is medically absurd. When (partial-birth) abortions are done on an outpatient basis..you are putting a mother's life in jeopardy." A prominent late-term abortionist, Warren Hern, M.D. has stated " I have very serious reservations about this procedure. You really can't defend it....I would dispute any statement that this is the safest procedure to use. Turning the fetus into a breech position is potentially dangerous." This quote was given as a part of testimony before the Senate Judiciary Committee.

The abortion proponents suggest that this procedure is rare; in fact it has been performed in one New Jersey clinic on over 1300 patients, many of whom were elective abortions. Dr. M. Haskell who developed this procedure asserted that at least 80% of the abortions he performed using this method were for elective reasons.

I would urge you to consider these facts as you deliberate S.B. 234 which would prohibit this procedure.

Respectfully,

Judy Smith

Judy Smith
Area Representative
Concerned Women for America, Kansas

Concerned Women for America of Kansas
P.O. Box 4 • Seneca, KS 66538 • Phone (913) 336-2091

House Judiciary
Attachment 2
4/3/97

#3 The Partial Birth Abortion #4

The partial birth abortion, the "nearly intact dilatation and extraction or D&X" of Dr. Martin Haskell is never necessary to preserve the life, health, or fertility of the pregnant woman. On the contrary, it may be dangerous in respect to the life, health, or fertility of the mother.

In this procedure, Dr. Haskell describes delivering the baby feet first until the after coming head, the largest part, gets stuck in the birth canal. He then makes a hole in the base of the skull with a scissors, and then inserts a suction tube in the hole to "evacuate the skull contents", in the words of Dr. Haskell. The preliminaries to this procedure are the potentially dangerous parts of the operation. The cervix must be opened by packing with chemically active cylinders over several days. Then, at the time of the operation, the baby must be turned to a feet first presentation.

In Dr. Haskell's original paper, he described technique only. A recent search of the medical literature revealed not one single article on D&X. To date, to my knowledge, there has been no published study of the indications, results, complications, risks, or after effects of D&X. No one knows the true danger of the procedure to the mother because no one has studied it.

There are standard alternative techniques which have been studied extensively. Their use, indications, risks, complications, and after effects are known. No comparative study of D&X with standard techniques has ever been done.

The D&X is done between 20 and 32 weeks of pregnancy. Twenty weeks of pregnancy was defined as the beginning of the period of viability (when the baby is able to live outside the mother's body) by the American College of Obstetrics and Gynecologists in 1972.

The D&X facilitates birth by decompressing the skull, but that also kills the baby. The standard techniques of induction of labor by stimulating uterine contractions with medication or by the performance of Cesarean operation have known characteristics and usually produce a living baby.

In the case of a very sick mother with an essentially normal but premature baby, induction of labor or Cesarean section can be done, immediately relieving the mother and saving the baby. In the case of a severely deformed baby who will not live outside the mother's body, it is completely unnecessary to submit the mother to an unknown, perhaps great risk to sacrifice a baby who will die in any event. In the case of a dead or dying baby, it is useless and senseless to subject the mother to any additional risk in the baby's interest. In that case, the safest, most compassionate course should be chosen. Labor induction with adequate pain relief and calming medication is the safest, most compassionate treatment for the mother.

In conclusion, partial birth abortion, "the nearly intact D&X", always destroys the life of the baby at a time when it might live if healthy, and always subjects the mother to an unknown, possibly great risk. Neither aspect is ever necessary to preserve the life, health, or fertility of the mother.

Kansas should legally ban the partial birth abortion to protect vulnerable mothers and babies.

House Judiciary
Attachment 3
4/3/97

#4

ARTHUR W SOLIS

215 North Normandy ❖ Olathe Kansas 66061-5084 (913) 782-1613

WRITTEN TESTIMONY SUBMITTED TO THE

SENATE COMMITTEE OF FEDERAL AND STATE AFFAIRS

BY

ARTHUR W. SOLIS

WEDNESDAY, MARCH 12, 1997

SENATE BILL No. 230
SENATE BILL No. 233
SENATE BILL No. 234
HOUSE BILL NO. 2269

Chairperson Oleen and Members of the Senate Committee:

Thank you for the opportunity to submit written testimony in **favor** of Senate Bill No. 230, Senate Bill No. 233, Senate Bill No. 234, and House Bill No. 2269.

In addition to being a civil rights/constitutional attorney, I am by training and education a biochemist. Therefore, on the basis of law and science, I unequivocally support SB 230, SB 233, SB 234, and HB 2269. I particularly support HB 2269's definition of the term "conception" to mean "the fusion of a human spermatozoon with a human ovum" and SB 233's definition of the term "viable" to mean "that stage of gestation when, in the best medical judgment of the attending physician, the fetus is capable of sustained survival outside the uterus with or without the application of extraordinary medical means."

Chairperson Oleen and Committee members, my only concern with SB 230 (subsection (a)(1) of Section 4) and HB 2269 (subsection (b) of Section 5) are the statutory provisions which **mandate** that printed materials required by the bills to be provided by the Department of Health of Environment be provided in both English and ***Spanish*** versions. I am also concerned with the statutory provisions of SB 230 (Section 2(d)) and HB 2269 (Section 4(d)) which require that if a woman asks questions concerning any of the information or materials, answers shall be provided to her in her own language.

I respectfully urge the Senate Committee to favorably report out the above referenced bills, as amended by striking out language requiring materials be provided in Spanish.

This concludes my testimony.

House Judiciary
Attachment 4
4/3/97

#5

ACOG *Statement of Policy*

As issued by the ACOG Executive Board

STATEMENT ON INTACT DILATATION AND EXTRACTION

The debate regarding legislation to prohibit a method of abortion, such as the legislation banning "partial birth abortion," and "brain sucking abortions," has prompted questions regarding these procedures. It is difficult to respond to these questions because the descriptions are vague and do not delineate a specific procedure recognized in the medical literature. Moreover, the definitions could be interpreted to include elements of many recognized abortion and operative obstetric techniques.

The American College of Obstetricians and Gynecologists (ACOG) believes the intent of such legislative proposals is to prohibit a procedure referred to as "Intact Dilatation and Extraction" (Intact D & X). This procedure has been described as containing all of the following four elements:

1. deliberate dilatation of the cervix, usually over a sequence of days;
2. instrumental conversion of the fetus to a footling breech;
3. breech extraction of the body excepting the head; **and**
4. partial evacuation of the intracranial contents of a living fetus to effect vaginal delivery of a dead but otherwise intact fetus.

Because these elements are part of established obstetric techniques, it must be emphasized that unless all four elements are present in sequence, the procedure is not an intact D & X.

Abortion intends to terminate a pregnancy while preserving the life and health of the mother. When abortion is performed after 16 weeks, intact D & X is one method of terminating a pregnancy. The physician, in consultation with the patient, must choose the most appropriate method based upon the patient's individual circumstances.

According to the Centers for Disease Control and Prevention (CDC), only 5.3% of abortions performed in the United States in 1993, the most recent data available, were performed after the 16th week of pregnancy. A preliminary figure published by the CDC for 1994 is 5.6%. The CDC does not collect data on the specific method of abortion, so it is unknown how many of these were performed using intact D & X. Other data show that second trimester transvaginal instrumental abortion is a safe procedure.

continued. . .

The American College of Obstetricians and Gynecologists
409 12th Street, SW, PO Box 96920 • Washington, DC 20090-6920 Telephone 202 638 5577

House Judiciary
Attachment 5
4/3/97

Terminating a pregnancy is performed in some circumstances to save the life or preserve the health of the mother. Intact D & X is one of the methods available in some of these situations. A select panel convened by ACOG could identify no circumstances under which this procedure, as defined above, would be the **only** option to save the life or preserve the health of the woman. An intact D & X, however, may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, and only the doctor, in consultation with the patient, based upon the woman's particular circumstances can make this decision. The potential exists that legislation prohibiting specific medical practices, such as intact D & X, may outlaw techniques that are critical to the lives and health of American women. **The intervention of legislative bodies into medical decision making is inappropriate, ill advised, and dangerous.**

Approved by the Executive Board
January 12, 1997

Testimony by Rabbi Lawrence P. Karol, Topeka, Kansas, March 12, 1997

I appreciate this opportunity to speak to you about an issue that relates to medicine, religion and law. When dealing with those three arenas of life at one time, simple testimony may not adequately provide an answer to the question of when life begins. In any case, I believe that law and medicine should allow all citizens and patients to freely practice and apply the principles of their faith.

The Jewish view on when life begins derives from a passage in the 21st chapter of the biblical book of Exodus. When translated from the original Hebrew text, it reads: "When two men scuffle and deal a blow to a pregnant woman, so that she miscarries, but no other harm occurs, the man is to be fined....according to assessment. But if harm should occur, then you are to give life in place of life, eye in place of eye, tooth in place of tooth."

From a Jewish perspective, this passage focuses on the condition of the pregnant woman. If the person who struck her caused her to miscarry, the local judges imposed a fine to compensate the woman and her husband for the end of the possibility of bearing a child. However, if the woman was hurt, the person who struck her was punished based on the extent of her injury. If she sustained injury to her eye, for example, the court imposed on the offender the penalty for such a case of physical assault. However, if the woman died, the offender was judged to be liable for her death and was punished accordingly.

The rabbis, the teachers of Jewish tradition throughout the centuries, developed a host of laws based on this and other biblical passages that guide personal decision-making in situations relating to a difficult pregnancy. For Judaism, the question was not and is not "When does life begin?" The question is, "When a pregnancy threatens the physical or emotional well-being of the mother, what should be done to preserve the mother's health?"

Judaism values the life of the developing child, but it places even greater value on the life and health of the mother, hoping to sustain her strength and vitality. Over the

House Judiciary
Attachment 6
4/3/97

centuries, #6 Jewish authorities came to determine that the termination of a pregnancy might be necessary if the pregnancy or childbirth could pose a danger to the mother's life or a threat to the mother's physical or emotional health. Making this decision was a serious matter, because it involved the tragic choice of ending the possibility of the birth of a new human being. Yet, Judaism valued the well-being of the mother enough to sanction such a choice. The principles of the Jewish tradition would prohibit, in many cases, allowing a mother to die in order to save the child developing in her womb.

Once the child's head has emerged from the womb during childbirth, Judaism considers the child as a human being equal in status to the mother. Jewish law would view a 90 year-old veteran of life in the same way as a one-day old newcomer to the human family.

The classic Christian interpretation of the passage in Exodus Chapter 21 is based on a Greek rendering of the text which changes some of the original Hebrew. In the situation that called for financial compensation, the words that referred to "miscarriage" in Hebrew became, in Greek, a phrase that means "if the child is born imperfectly formed." The next sentence, "but if harm should occur," was applied in the Greek bible text to the child, not to the mother. The focus of this passage was shifted from the mother to the child, leading to the conclusion that the offender who pushed the woman was guilty of murder if the woman miscarried. I clearly recognize that different understandings of the same verses lead Jews and some Christians to opposite conclusions. Yet, to be fair to everyone, no one in government should try to decide through legislation which interpretation is right.

I know that it is certainly not your task to referee between two religions on how to interpret biblical passages. It is your responsibility to preserve freedom for all people to follow and practice the principles of their faith. I hope that you will reject any attempt to pass a law that, regardless of its intention, will have the effect of imposing one set of religious beliefs on all Kansans.

House Judiciary
Attachment

7

Senator Lana Oleen,
Chairwoman
Senate Federal and State Affairs Committee

Re: Hearing on Senate Bills #230, #233, and #234

On Monday, March 10, the Wichita Eagle carried a two page advertisement from the Sprint Communications Company. The line went,

> "A culture is defined by how well its people connect.
>
> . . .
>
> It's a simple desire really. To speak, to listen, to be heard, to connect. And throughout history people have found new, more powerful ways to do so. Now they will again."

In the field of technological communication, I am sure this is true. There is no question about how our culture and world are being defined by technological communication. What is true of technology, however, is not necessarily true in the arena of faith and morality. When faith meets faith and morality meets morality, factions seem only to speak and rarely listen or connect.

Certainly this is true when faith positions come into conflict over questions, such as When is life life?; When is life viable?; and When should a fetus be determined to be a child? In this area there seems to be little agreement. Biology can tell us how a sperm and an egg create fetal life. Genetics can tell us what characteristics the fetal life will carry. Medicine can assist the nurture of a pregnant woman carrying fetal life. However, when it comes to establishing the value of a life, that value is given at birth by the family into which the new life is born and the social environment into which the new life enters.

You as a Kansas Legislature have acknowledged this diversity of life in the current law regarding abortion rights. You have granted reproductive freedom to women and in giving that freedom you have allowed every woman to make a reproductive decision on the basis of her faith and moral position. You have indicated in the current Kansas statute that a woman should have the right to reproductive freedom and that if she chooses to terminate a pregnancy, that procedure will be done with all the information necessary and in the best medical facilities possible.

The Senate Bills #230, #233, and #234 that are before you, are attempts to bring a particular religious and moral point of view into the current Kansas law. These beliefs infer and imply that life begins at conception. This is not a universally held

House Judiciary
Attachment 7
4/3/97

biological or religious faith position. My own denomination, the United Methodist Church, supports the current Kansas statute granting the right of reproductive choice to women but would not be in support of these Senate Bills. In part, here is my denomination's position.

The Social Principles
The United Methodist Church
From the BOOK OF DISCIPLINE
Section II

J) 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 we support the legal option of abortion under proper medical procedures.

I encourage the Committee on Senate and State Affairs to leave the current law regarding the right to abortion as it is. The law allows for an individual to make a decision in keeping with her faith and conscience. If a law can guarantee that, the law has indeed held up the premise that liberty and justice belong to everyone.

Rev. George T. Gardner
Senior Minister
College Hill United Methodist Church
2930 E. First
Wichita, KS 67214

and

Co-Chair, Kansas Religious Leaders For Choice

GTG/krd

Planned Parenthood®
of Mid-Missouri and Eastern Kansas

KANSAS SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
SENATOR LANA OLEEN, CHAIR

March 12-13, 1997

Madam Chair and Members of the Committee:

Two years ago, the Kansan's for Life organizaiton very publicly stated that their intended goal was to outlaw all abortions in the state by the year 2000. All of the bills you will hear over these next two days are steps toward that goal. Attached, please find testimony from our organization about these bills which is based on our experience as a reproductive health care provider for 62 years.

HB 2269 and SB 230 are remarkably similar to the bill that Governor Graves vetoed last year. It is the height of audacity to submit the same bill again with only minor changes. This is obviously a political game as the sponsors know that the governor is running for re-election next year. They are daring him to veto it again.

These bills are not about information, they are about access to abortion. The attached testimony regarding these bills illustrates this point. The current law works. We don't need more laws on the books to tie up the time and energy of women and doctors. The efforts of the bills' sponsors would be better spent in making affordable birth control and comprehensive sexuality education more readily available so that unintended pregnancies and the abortion rate would be reduced.

SB 233 and SB 234 constitute unprecedented interference into the best judgment of physicians by those who have no medical training. It is a terrifying thought that any doctor that I might come into contact with might be restricted by the government from giving me the most accurat information and best medical care to maintain my health and well-being. This is true whether it is my HMO or the state which gags or restrains my doctor regarding the details of medical practice.

Please vote against all of these bills before you today. The women of Kansas need and deserve access to good medical care, not the moral judgment of those who do not know them or their situations.

Respectfully,

Ellen W. Brown

Ellen W. Brown
Public Affairs Coordinator

House Judiciary
Attachment 8
4/3/97

1001 East 47th Street • Kansas City, Missouri 64110-1699 • 816/756-2277

9

Planned Parenthood®

Of Kansas, Inc.

Opposition to SB 234

SB 234 prohibits "partial birth abortions".

- **The definition in this bill does not refer to any specific abortion method.** The wording is vague and would **outlaw a variety of procedures** used in **previability abortion.**

- **The phrase"partial birth abortion"** is a **political term not a medical one.** It was **fabricated by those who oppose abortion** to describe loosely what some physicans call intact dilatation and extraction. (Intact D&X)

- **The Intact D & X** is a method of abortion used as early as 12 weeks, but is most often used after 20 weeks. **It is a medically safe procedure that some physicians judge, in consultation with their patients, as most appropriate.**

- **90% of all abortions occur in the 1st trimester. Only 4/100 of 1% of abortions take place in the 3rd trimester. That is approximately 320-600 a year. The actual procedure in post viability Intact D &X make up only a percentage of those.**

- **Only 1% of abortions are done 21 weeks or later.** Statistics are difficult to collect for a number of reasons. However, those that are available **are not collected according to procedure,** but **weeks into the pregnancy.**

- **These late term abortions are where women and their families are facing planned pregnancies that have gone very wrong. They deserve the best, safest and most compassionate medical care available.**

- **Women's lives, health and future do matter, and must be protected.**

- In **January 1997** the **American College of Obstetrics and Gynecologists** (ACOG) in addressing the issue of "procedure bans" stated, **" The intervention of legislative bodies into medical decision making is inappropriate, ill advised and dangerous."**

Planned Parenthood of Kansas strongly opposes governmental interference and limitations on any medical practice or procedures.

- **We believe physicians must be able to use their best judgement to make surgical determinations in providing the safest medical care possible to their patients.**

- **Physicians must be held accountable to patients, not politicians.**

Please vote against SB 234.

Respectfully: Monica Neff, Lobbyist
Planned Parenthood of Kansas (913)-842-6496

Wichita--2226 East Central, Wichita, Kansas 67214-4494 316 263-7575
Hays--122 East 12th, Hays, Kansas 67601 913 628-2434

House Judiciary
Attachment 9
4/3/97

10

Planned Parenthood®

Of Kansas, Inc.

Senate Federal and State Affairs Committee

Testimony in Opposition to SB 230 / SB 233 / SB 234 / HB 2269

March 12, 1997

Submitted by: Monica Neff
(913)-842-6496

Honorable Chair and Distinguished Members of this Committee:

It is disheartening to once again be addressing legislation which in no way will "prevent" unintended preganacies, but will "prevent access" to physicians, surgical procedures and the right to abortion itself.

Planned Parenthood of Kansas strongly opposes all four bills. Please clearly remember that your decision and your votes will affect the "real lives" of women and their families.

- This is legislation that dictates to physicians information they must provide and under what conditons, medical procedures they can and cannot use and professional and ethical standards they must ignore to meet the mandates of legislators, rather than needs of their patients.

- This legislation would constrict the delivery of medical services, limit available medical procedures and disregard the medical judgement of attending physicians for their patients.which is inappropriate. Such legislation should not be tolerated by you or the citizens of our state.

- Physicians should be accountable to patients, not politicians.

Please be courageous in your discernment and understanding of the actual ramifications each of these bills would have on the lives of real women and their families.

Attached is testimony in opposition to each of these abortion related bills.

I ask that you vote against SB 230, SB 233 SB 234 and HB 2269 and prevent any further mandates and restrictions that interfere with private reproductive decisionmaking and which limit access to available appropriate medical care.

Do not allow governmental legislation based on one religious belief of when "life begins" to be forced on everyone else.

Thank you for your consideration.

Wichita--2226 East Central, Wichita, Kansas 67214-4494 316 263-7575
Hays--122 East 12th, Hays, Kansas 67601 913 628-2434

House Judiciary
Attachment 10
4/3/97

Choice Action League

#10

P.O. Box 3622
Wichita, KS 67201

Phone 316-681-2121
Fax 316-681-2121
Email peggyjj@aol.com
Topeka - 357-8510

To: Senate Federal and State Affairs Committee
From: Peggy Jarman, Lobbyist, ProChoice Action League
and Women's Health Care Services
Re: H.B. 2269, S.B. 230, S.B. 233, S.B. 234

H.B. 2269 and S.B. 230 Informed Consent

You have been told that women in this state are having abortions without consent, without knowing what they are doing. I want to call your attention to **Attachment A**. It contains the consents that patients sign before an abortion is done. Start with the top page. That is the consent that is sent to patient 8 hours before her procedure. It has been suggested to you that it does not meet legislative intent of the 1992 Kansas Abortion Law and that it is the only consent that a patient ever sees. I challenge both of those assertions.

First, legislative intent. The sponsor of the House bill fails to report to you that the bill that left the House in 1992 had NO informed consent. That amendment was defeated. That amendment was almost identical to these bills. The legislative intent of the House concerning consent was ZERO. When the bill hit the floor of the Senate, an anti-choice Senator, who had expressed great animosity for the bill's sponsor, moved to strike the enacting clause and he was successful. We went back to the drawing board and wrote another bill. WE added informed consent. That is the bill that became law in July, 1992. If there was legislative intent, it was never about creating undue burden for women in this state.

Second, you can see the consents in front of you. I submit to you that NO woman in this state is having an abortion without full knowledge that she is ending a pregnancy. You can also see that she is told the risks of the procedure. ...one by one, in detail. This is quality care, standard care. As remote as these complications are, and they are remote, all patients have this information before surgery. All of the medical requirements in this bill are already being met by physicians providing abortions in this state. They have always been provided. Not because you passed a law, any law, but because it is standard of care in the medical profession.

You are told that physicians who are providing abortions services are the only doctors not regulated. That is entirely and completely incorrect. ALL physicians in this state are licensed and regulated by the Kansas Board of Healing Arts. They have comprehensive standards of care, rules for advertising, penalties for certain actions, and the ability to revoke, suspend, or limit licenses of all physicians in this state. Any physician can be sued for medical malpractice by any patient at any time for any care the patient believes to be substandard. There are no exceptions for physicians providing abortion services. You are also told that physicians providing abortion services are the only ones not required to inform their patients using some type of informed consent. Informed consent is not mandated by statute. It is standard of care, something ALL doctors do, not because you have legislated it, but because it would be considered malpractice if they didn't. This legislation mandates no regulations for doctors concerning quality of care, but dictates to physicians...and only those doing this one type of surgery...who and what and how to set up and deliver services. What the legislation does is interfere with the quality of care physicians now deliver.

It has been suggested to you that physicians who provide abortions services are only interested in money and that quality of care is totally unimportant to them. The implication is also that they are the only physician concerned about money and the only physician who has ever had a patient that has not been 100% satisfied with the care received or the only physicians in the state to have any problems, personal or otherwise. I know you know none of these latter things can possibly be true so I will not belabor this point. I do want to call your attention to **Attachment B**. Those are letters from patients. I am not going to tell you that ever patient has loved our service, found us to be 100% compassionate, loving and caring. But I can tell you that for ever letter we receive from someone who has a complaint, there are 100 like the ones you have in front of you. I ask you to read those letters before deciding physicians providing abortion services are just money-grubbing, uncaring, unqualified doctors who must be singled out by this legislature and told how to deliver medical care. Count the patients who say, "Thank you for saving my life." "Thank you for the quality of care and kindness I received."

House Judiciary
Attachment 11
4/3/97

This bill is not about information. It is about denying access.

- This bill is not about a woman's right to know. It is about putting up barriers.
- This bill is not about quality of care. It is, in fact, dangerous to women to the point of of risking lives.
- This bill is a deliberate attempt to put doctors in a Catch 22 position where it is impossible to provide services and to return to the good ol' days of pre *Roe v. Wade* where only the rich could get safe abortions.

I call your attention to **Attachment C.** This legislation is simply part of the Kansans for Life "Five Year Plan to Stop Abortions in Kansas." Read the articles I have attached in that section. You will see they are following the outline set forth in Firestorm that tells how to make the issue of the legality of abortion moot by restricting them to the point that no one will have access.

There are many problems with this bill. I have outlined them one by one in **Attachment D.**

I urge you to defeat both H.B. 2269 and S.B. 230.

S.B. 233 Viability

The Kansas Compromise Abortion Bill is unconstitutional. It is unconstitutional because it contains no exception for abortions after viability to protect the health of women, a clear violation of *Roe v. Wade*. This was done to appease anti-choice legislators. They wanted a bill without that exception. They got it. Now they are back wanting more. The definition they now want could make abortions illegal after the first trimester. The state would be saying if a fetus can be attached to a machine, an abortion cannot be done. Nothing about outcome, quality of life, health of the woman....nothing.

I urge you to defeat this terrible bill.

S.B. 234 Banning the Intact D and X (partial birth abortion) Procedure.

Several weeks ago I asked the sponsors of this bill to adopt language that would make an exception to save the life of a woman and to clearly identify this procedure. That is required so that there would be no chance that any woman would needlessly die because people were practicing medicine without a license, i.e. this legislature. And, it was required to make certain that this and only this procedure was banned. You will find the proposed language in **Attachment E** along with supporting documentation from ACOG. It is clear from the response I received that this bill is about politics rather than banning a procedure. I stated as far back as July, 1996 that no physician in this state uses this procedure. This bill is about media and emotionalizing this issue. It is clearly inappropriate for the legislature to take options away from doctors. But given the highly unlikely circumstance that this procedure would ever be used in this state, it seemed wise to me not to oppose this bill if it met logical standards. There are organizations that disagree with me strongly and you have written testimony from them. I hope you will consider all of their testimony carefully. I also hope you will be as disgusted as I am at the total lack of sincerity by the people who are playing games and playing politics with this procedure.

I urge you to defeat this bill.

12

AMERICAN CIVIL LIBERTIES UNION

OF KANSAS AND WESTERN MISSOURI

1010 West 39th Street, Kansas City, Missouri 64111 (816) 756-3113

Testimony in Opposition to HB 2336 and SB 234 - March 13, 1997
Senate Federal and State Affairs Committee, Senator Lana Oleen, Chair

These bills called "partial-birth abortion" bans (a vague term unrecognized by the medical profession) are unconstitutional. The government may not enact an abortion regulation that compromises a woman's health by forcing her from a safer procedure to a riskier one. Even if these bills were precisely crafted to reach only their apparent target, the intact dilation and extraction procedure, it would do just that -- they could deprive a woman seeking an abortion of the safest and most appropriate abortion method which provides the best chance for preserving her health and life in her particular circumstances.

Physicians consider many factors in selecting an abortion method that, in their medical judgment, is safest for a particular woman. These factors may include the woman's medical condition; fetal size, location, and medical status; the length of gestation; and the physician's skills and experience with different abortion methods. The Supreme Court has emphasized that physicians must have discretion to determine the best course of treatment for a woman seeking an abortion:

> Roe stressed repeatedly the central role of the physician, both in consulting with the woman about whether or not to have an abortion, and in determining how any abortion was to be carried out . . . "[T]he abortion decision in all its aspects is inherently, and primarily, a medical decision." (Colautti, 439 U.S. at 387 (emphasis added)

An Ohio federal court that recently considered a constitutional challenge to a state ban on D&X procedures -- and issued an injunction against the ban's enforcement -- found that D&X "appears to have the potential of being a safer procedure than all other available abortion procedures" after the 19th week of pregnancy. That court compared the D&X procedure to induction, hysterotomy (a cesarean section performed before term), and hysterectomy.

The Ohio court also found that use of D&X in the late second trimester "appears to pose less of a risk to maternal health" than D&E "because it is less invasive -- that is, it does not require sharp instruments to be inserted into the uterus with the same frequency or extent -- and does not pose the same degree of risk of uterine and cervical lacerations."

Not only would HB 2336 and SB 234 channel some women to riskier procedures, it would also limit a physician's discretion to adapt the abortion procedure to preserve a woman's health once the operation has begun. The Ohio court commented that physicians who use the D&X procedure "may not know which procedure they will perform until they encounter particular surgical variables and circumstances after they begin the procedure to terminate the pregnancy." For example, a physician may resort to the D&X procedure if the fetus is in a breech position but may otherwise use a standard D&E.

Government regulation that relegates a woman to riskier abortion procedures contravenes the United States Supreme Court's decision in Planned Parenthood v. Danforth. That case considered a ban on the saline amniocentesis abortion method after the first 12

House Judiciary
Attachment 12
4/3/97

weeks of pregnancy. The Court struck down the ban because it "forces a woman and her physician to terminate her pregnancy by methods more dangerous to her health than the method outlawed." Further, under the United States Supreme Court decision in Thornburgh v. American College of Obstetricians & Gynecologists, state abortion laws may not 'require the mother to bear an increased medical risk' to serve a state interest in fetal welfare."

These bills would not permit use of the banned procedures for abortion of a non-viable fetus for any purpose except to save the woman's life. In so narrowly restricting the circumstances in which the banned procedures remain permissible, they fall far short of constitutional principles. It is no answer that other procedures may remain available. A woman and her doctor must remain free to choose the method safest for her.

When a fetus is viable, the government may regulate and even ban abortion -- except when the procedure is necessary to preserve the life or the health of the woman. Here again, the bills unconstitutionally restrict the purpose for which a woman may choose to terminate her pregnancy. Because it omits a health exception, the bill could force a woman whose health is seriously threatened by her pregnancy either to undergo a more dangerous operation when she is already ill or to wait until she is dying to have recourse to the otherwise banned procedures. The government may not reduce her to such dangerous options.

Please oppose the passage of HB 2336 and SB 234.

Contact: Carla Mahany
(816) 756-3113, ext. 305

#13

KansasNOW
working for equality for women

PO Box 15531
Lenexa, KS 66285-55531

To: **Senate Committee on Federal and State Affairs**

Submitted By: **Jana L. E. Gryder**
Kansas National Organization for Women

Date: **March 12, 1997**

Re: **Testimony in Opposition to HB 2269, SB 230, SB 233 & SB 234**

The Kansas Chapter of the *National Organization for Women* stands in opposition to any barriers to a woman's procurement of an abortion. This is a Constitutional right that has been decided by the Supreme Court of the United States in *Roe v. Wade* and *Planned Parenthood v. Casey*. The proposed legislation hinders access to medical services and permits the State of Kansas to tell doctors how to practice medicine. Kansas already has narrow laws that place obstructive barriers to a woman's right to make a very personal and private decision.

HB 2269 & SB 230

These are redundant and unduly confining bills that are disguised under the "*woman's right to know*." The intent of **HB 2269 & SB 230** is not to fully inform the woman of her current options. Their purpose is to even more fully harass women who are seeking to exercise their Constitutional right.

The information mandated is hypocritical and deceptive. It does not follow with welfare reform. It misinforms women about the sufficiency of assistance to support children. State programs have been seriously restricted and reduced by current legislation and child support payments are almost impossible to recover. Do not try to demean women by disguising restrictions under a protective "*right to know*."

SB 233 & 234

Medical experts should be the ones that define medical terms - not religion, or State Legislators. Women and their families have the capacity to decide if, and when extraordinary medical means are needed. This is a personal medical decision between a trained, licensed physician and a person with Constitutionally mandated autonomy rights.

These bills are full of undefined terms that are in the best interest of the anti-choice people to enable them to stretch these terms to serve their goal to outlaw abortions. Before a fetus is even able to live outside of the mother's body, the State of Kansas is going to intervene in parental rights and "protect" this "unborn child" and give it life by machines. Once a child is born, this same State gives parents the right to malnourish, not immunize, neglect,

House Judiciary
Attachment 13
4/3/97

sexually and physically abuse this child. It takes a death or near death situation for the State to intervene once the child has actually been born. This is implausible.

I truly believe that the proponents of these bills could care less about a woman's right to know or any other right for that matter. They are trying to enforce their political and religious beliefs upon others through legislation. Politicians decide what should and should not be told to a patient in no other medical procedure. No other medical procedure is so legislated as abortion.

In **SB 230** it is stated that it is unlawful to coerce a woman into having an abortion. Can it also be unlawful to coerce a woman into not having one through harassment, duress and obstacles - if that is what she truly wants? She has the right to decide what to do with her own life and body!

Women are not ignorant. They know what an abortion is and do not make an impulsive decision about having one. It is a difficult decision with much time spent on thought and consideration of all options. We all can make an informed choice without government intervention. All people are capable of deciding their own health options ethically, knowledgeably, emotionally, and spiritually - according to their own ethical, moral and spiritual beliefs - not the Legislature's.

14

ProChoice Action League

P.O. Box 3622, Wichita, KS 67201
9517 E. Bluestem
Wichita, KS 67207

Phone 316-681-2121
Fax 316-681-2121
Email peggyjj@aol.com

Topeka - 357-8510

To: Members, House Judiciary Committee
From: Peggy Jarman
Re: S.B. 234

The only real issue on this bill is the appropriateness of the legislature establishing medical protocol. The question is whether this is a sincere attempt at banning a specific procedure that many find unnecessary, even abhorrent or just an opportunity to further emotionalize an issue that divides us. If this legislature deems it is appropriate to ban this procedure and if it is sincere about doing so, S.B. 234 is a good bill.

As amended by the Senate, it is good for two reasons.

1. It has an exception to save the life of the woman. Even if you cannot think of any time that this would be necessary, to put into law a ban without this exception makes you seem callous and totally uncaring. It is clearly unconstitutional without the exception and sends a message of not only loathing the procedure but women too.

2. It now has a clear, medical definition (from the American College of Obstetricians and Gynecologists) of exactly what you would be banning. This should not be controversial, but a given if there is sincerity about this ban.

A Senator, in his explanation of vote, said he hoped the House would restore the original language. He saw the need for that because he said the bill as it was leaving the Senate would not stop this procedure. In a way, he is right. This procedure is not being done in this state, so it is hard to stop what has not started. However, this bill would insure that "partial birth abortions" would not be started, would not be done in this state.

House Judiciary
Attachment 14
4/3/97

15

Planned Parenthood®
Of Kansas, Inc.

HOUSE ALERT

SB 234 - This **anti-choice bill** is falsely known as the **"Partial Birth Abortion Ban"**. This bill passed out of the Senate amended with a specific definition for an Intact D &E procedure.. **This bill:**

- **bans physicians from ever using this safe medical procedure, except to preserve the life of the pregnant woman.**
- **bans a procedure used before and after viability.**
- **has no health exception for the woman.**

We oppose SB 234, even in its amended version, because:

- **A ban would clearly UNDERMINE A PHYSICIAN'S ABILITY TO DETERMINE the best course of treatment for a patient.**
- **This can be the best way to preserve a woman's FUTURE FERTILITY. Forcing possible sterility on women for purely political gain is immoral. Governmental interference in the medical judgement of doctors is wrong and should not be tolerated.**
- **Physicians must be held ACCOUNTABLE TO THEIR PATIENTS, not to political extremists.**

STAY STRONG FOR CHOICE!!

- **Please leave these traumatic and deeply personal decisions to women, their families and their doctors.**
- **Doctors should be allowed to provide the safest and most appropriate medical care possible for all of their patients, including women.**

PLEASE VOTE AGAINST SB 234 and any attempts to attach contents of HB 2269.

We need your vote to show Governor Graves we can sustain his veto if necessary.

Thank you.!!

House Judiciary
Attachment 15
4/3/97

Respectfully: Monica Neff, PPK Lobbyist (913)-842-6496

Planned Parenthood®

Of Kansas, Inc.

Opposition to SB 234

SB 234 prohibits "partial birth abortions".

- **The definition in this bill does not refer to any specific abortion method.** The wording is vague and would **outlaw a variety of procedures** used in **previability abortion.**
- **The phrase"partial birth abortion"** is a **political term not a medical one.** It was **fabricated by those who oppose abortion** to describe loosely what some physicans call intact dilatation and extraction. (Intact D&X)
- **The Intact D & X** is a method of abortion used as early as 12 weeks, but is most often used after 20 weeks. **It is a medically safe procedure that some physicians judge, in consultation with their patients, as most appropriate.**
- **90% of all abortions occur in the 1st trimester. Only 4/100 of 1% of abortions take place in the 3rd trimester. That is approximately 320-600 a year. The actual procedure in post viability Intact D &X make up only a percentage of those.**
- **Only 1% of abortions are done 21 weeks or later.** Statistics are difficult to collect for a number of reasons. However, those that are available **are not collected according to procedure,** but **weeks into the pregnancy.**
- **These late term abortions are where women and their families are facing planned pregnancies that have gone very wrong. They deserve the best, safest and most compassionate medical care available.**
- **Women's lives, health and future do matter, and must be protected.**
- In **January 1997** the **American College of Obstetrics and Gynecologists (ACOG)** in addressing the issue of "procedure bans" stated, " **The intervention of legislative bodies into medical decision making is inappropriate, ill advised and dangerous.**"

Planned Parenthood of Kansas strongly opposes governmental interference and limitations on any medical practice or procedures.

- **We believe physicians must be able to use their best judgement to make surgical determinations in providing the safest medical care possible to their patients.**
- **Physicians must be held accountable to patients, not politicians.**

Please vote against SB 234.

Respectfully: Monica Neff, Lobbyist
Planned Parenthood of Kansas (913)-842-6496

Wichita--2226 East Central, Wichita, Kansas 67214-4494 316 263-7575
Hays--122 East 12th, Hays, Kansas 67601 913 628-2434

The Alan Guttmacher Institute
New York and Washington

A Not-for-Profit Corporation
for Reproductive Health
Research, Policy Analysis
and Public Education

1120 Connecticut Avenue
Suite 460
Washington, DC 20036
Telephone: 202 296-4012
Fax: 202 223-5756
e-mail: policyinfo@agi-usa.org

When Do Abortions Take Place?

Recent press reports have contributed to confusion over when abortions occur. The data are straightforward and remain consistent over the years.

Of the 1.5 million abortions in the United States each year:

- Half take place within the first eight weeks of pregnancy*,
- 89% within the first twelve weeks, and
- 99% within 20 weeks.

No national data exist on abortions past 20 weeks – when the dilation and extraction procedure is sometimes used – but according to 1988 data compiled from 14 states by the Centers for Disease Control:

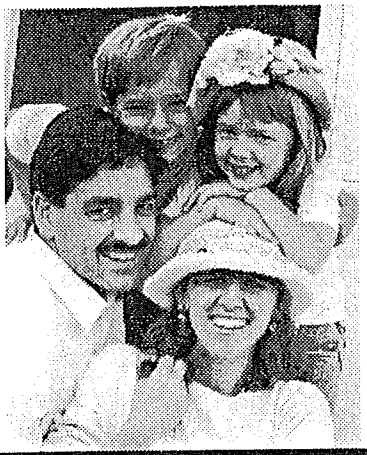
- ½ of one percent of all abortions take place at 21-22 weeks,
- 3/10ths of one percent occur at 23-24 weeks, and
- 6/100ths of one percent past 24 weeks.

*measured from the woman's last menstrual period

9/25/96

15-3

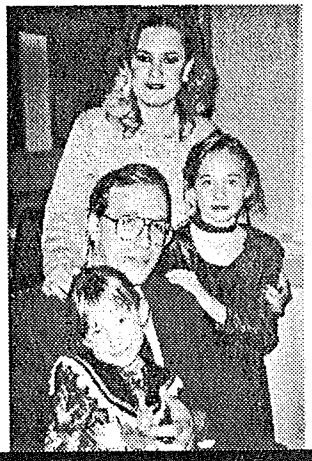
On march 24, 1995, Coreen Costello was seven months into her third pregnancy when ultrasound revealed her fetus had a severe and fatal neurological disorder. The fetus had been unable to move for two months. The head was swollen with fluid and the body was stiff. A conservative Republican, Coreen participated in "Walks for Life" and never thought she'd be faced with such a decision. The Costellos decided, with their doctor, that an abortion was the safest option for Coreen's health and future fertility. The procedure Coreen needed would be banned by this bill.



"We are the families who love and want our babies. We are the families who will forever have a hole in our hearts...It deeply saddens me that you [Senators] are making a decision having never walked in our shoes."

—Coreen Costello

At 32 weeks into her much-wanted pregnancy, Vikki Stella learned that her fetus h. severe abnormalities — including a fluid-filled cranium with no brain tissue at all. Vikki, a mother of two, and her husband consulted a series of specialists, who offered no hope. For Vikki, a diabetic, the safest procedure to protect her health and preserve her fertility was an abortion. Today, Vikki is again pregnant. She was outraged when the doctor who saved her "life, health and sanity," the doctor whose picture she still keeps on her refrigerator, called and told her the procedure that saved her life was in danger of being banned.

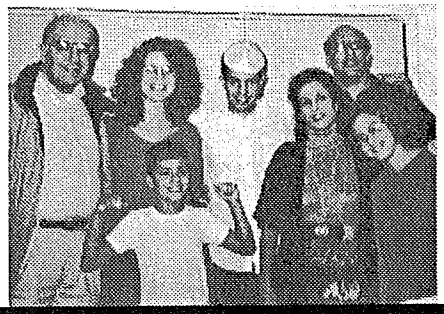


"[I]'ve been told mothers like me all want perfect babies... [My son] wasn't imperfect—he was incompatible with life. The only thing keeping him alive was my body. He could never have survived outside my womb."

—Vikki Stella

Richard and Claudia Ades were devastated. Their first child, due in three months, was diagnosed with a fatal chromosomal disorder, which, among other problems, caused extensive brain damage and serious heart complications. The fetus was also severely deformed and given no chance of living. The Ades decided for the sake of their family and future children to end the pregnancy. The procedure Claudia needed would be banned by this bill.

"Although I never imagined I'd have to make a decision like this, I can honestly tell you that for many reasons we feel very blessed. First, we were able to find out when we did. Second, that we had access to the finest medical care in the world. Third, we live in a place where our right to make that choice has not been compromised...yet."



—Claudia Ades

Eighteen months ago, Viki Wilson, a nurse, and her physician–husband Bill were expecting their third child. Early tests showed the pregnancy to be normal. But, in the eighth month, ultrasound showed the fetus had a fatal condition — two-thirds of the brain had formed outside the skull. Carrying the pregnancy to term would imperil Viki's life and health. In consultation with their doctor, Viki and Bill made the heartbreaking decision to have an abortion. The procedure Viki needed would be banned by this bill.

"I strongly believe that this decision should be left within the intimacy of the family unit. We are the ones who have to live with our decision."

—Viki Wilson, R.N.

Last fall, Tammy Watts and her husband were elated by the news of her pregnancy. But after a routine ultrasound in the seventh month, the Watts learned their fetus was suffering from a devastating chromosomal disorder and would not live. Knowing the fetus was going to die, the Watts made the most difficult decision of their lives and had an abortion. The procedure Tammy needed would be banned by this bill.

"Until you've walked a mile in my shoes don't pretend to know what this is like for me. Everybody has got a reason for what they have to do. Nobody should be forced into having to make the wrong decision. That's what would happen if this legislation is passed."

—Tammy Watts

Erica Fox was 22 weeks pregnant on October, 19, 1995, when doctors discovered her fetus had stopped growing, had suffered severe heart damage and was going to die in terrible pain. Erica and her husband took their doctor's advice and decided an abortion would be the option that would best protect Erica's ability to have children in the future.

"Did I just decide in my fifth month that I was tired of being pregnant? No! No! No! ... [This was] the most traumatic incident of my life...So, imagine my horror, when during my recuperation, I turn on C-SPAN and see the House of Representatives vote to make this very same procedure illegal."

—Erica Fox

H.R. 1833

Medical Questions and Answers

Q: What is a "partial birth abortion"?

A: Who knows? Not doctors. "Partial birth abortion" is a term made up by the authors of H.R. 1833/ S. 939 to suggest that a living baby is partially delivered and then killed.

The term is not found in any medical dictionaries, textbooks, or coding manuals. The definition 1531(b) of H.R. 1833 is so vague as to be uninterpretable, yet chilling. Many OB/GYNs fear this language could be interpreted to ban all abortions where the fetus remains intact. One procedure this bill would certainly ban is intact D&E (Dilation and Evacuation).

Q: When is intact D&E used?

A: As early as 12 weeks but most commonly in the second trimester between 20 and 24 weeks. It is also sometimes used in the third trimester.

Q: Are late term abortions common?

A: No, not at all. 95.5% of abortions take place before 15 weeks. Only a little more than one-half of one percent take place at or after 20 weeks. Fewer than 600 abortions per year are done in the third trimester and all are done for reasons of life or health of the mother including severe fetal abnormality.

Q: What are the maternal problems which cause women to seek late abortions?

A: Certain maternal problems would probably kill or disable the mother if the pregnancy continued, for example severe heart disease, kidney failure, or rapidly advancing cancer. Many of these women are literally dying to have a baby, but pregnancy affects diseases in unpredictable ways, and a woman can find herself carrying a wanted pregnancy which may cause her death.

Information Provided in Planned Parenthood Fed. of Am. Packet 1/97.

Q: Why not induce labor with drugs?

A: The cervix, which holds the uterus closed during pregnancy, is very resistant to dilation until about 36 weeks. Inductions done before this time take between two to four days. Induction is also a physically painful process. Because of the danger of uterine rupture, inductions require constant nursing supervision and are therefore done on the labor and delivery ward. The physical pain is intensified by the emotional pain of losing a wanted pregnancy while spending days listening to newborns make their first cries and other families cheer and cry in delight.

Q: Why not just do a caesarean?

A: A caesarean delivery generally involves twice as much blood loss as a vaginal delivery. Before 34 weeks gestation the lower segment of the uterus is usually too thick to use a standard horizontal incision, so a vertical incision is necessary. Any uterine incision complicates future pregnancy, but a vertical incision is more dangerous and jeopardizes both the mother's health and any future pregnancies. When the uterus has a vertical scar, future pregnancies require a caesarean and are more apt to be complicated by uterine rupture.

Q: Is there a safer and better option?

A: Yes. Using the intact D&E procedure, a doctor can put into the cervix small dry cylinders that expand as they absorb fluid from the mother, causing gradual expansion of the cervix overnight. The patient can return home except for twice daily clinic visits to ensure that she is dilating and to replace the osmotic dilators if more dilation is required. She receives intravenous anesthesia for the insertion of the dilators as well as for the procedure.

The procedure can be accomplished with less dilation -- which means less trauma to the cervix and less chance of problems in the next pregnancy -- if some of the fluid is removed from the fetal head, (which is the largest part of the fetus) by using a spinal needle for aspiration. This technique reduces the chances of lacerating the cervix which contains large blood vessels.

Subcommittee Report
Rep. Phill Kline
Rep. Shultz
Rep. Pauls
April 2, 1997

House Judiciary
Attachment 16
4/3/97

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

Session of 1997

SENATE BILL No. 234

By Senators Harrington, Bleeker, Brownlee, Hardenburger and Lawrence

2-10

AN ACT ~~prohibiting partial-birth~~ abortions; amending K.S.A. 1996 Supp. 65-6703 and repealing the existing section.

concerning

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1996 Supp. 65-6703 is hereby amended to read as follows: 65-6703. (a) No person shall perform or induce an abortion when the fetus is viable unless such person is a physician and has a documented referral from another physician not financially associated with the physician performing or inducing the abortion and both physicians determine that ~~(1)~~ the abortion is necessary to preserve the life of the pregnant woman; or (2) ~~the fetus is affected by a severe or life-threatening deformity or abnormality~~.

or when the gestational age of the fetus is 24 or more weeks

:(1)

serious risk of

prevent the substantial and irreversible impairment of a major bodily function of the pregnant woman

such person is a physician and has a documented referral from another physician not financially associated with the physician performing or inducing the abortion and both physicians determine that

~~*(b) (1) No person shall perform or induce a partial birth abortion.*~~

~~*(2) As used in this subsection, "partial birth abortion" means an abortion in which the physician performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.*~~

(b) (1) No person shall perform or induce a partial birth abortion unless the abortion is necessary to preserve the life of the pregnant woman.

(2) As used in this section, partial birth abortion means an abortion ~~*containing the following four elements: (a) Deliberate dilatation of the cervix; (b) instrumental conversion of the fetus to a footling breech; (c) breech extraction of the body except the head; [(d) insertion of a sharp instrument into the fetus' skull] and (d) [(e)] partial evacuation of the intracranial contents of a living fetus to effect vaginal delivery of [a dead but] an otherwise intact fetus.*~~

intentionally

in which the fetus is partially delivered vaginally and then killed before completing the delivery

[(3)] Nothing in this section shall be construed to create a right to an abortion. Notwithstanding any provision of this section, a person shall not perform an abortion that is prohibited by law.

(c) A woman upon whom an abortion is performed shall not be prosecuted under this section for a conspiracy to violate this section pursuant to K.S.A. 21-3302, and amendments thereto.

(d)

~~(b) [(c)]~~ Violation of this section is a class A person misdemeanor.

Upon a first conviction of a

, a person shall be guilty of

Upon a second or subsequent conviction of a violation of this section, a person shall be guilty of a severity level 10, person felony.

(f) If any provision of this section is held to be invalid or unconstitutional, it shall be conclusively presumed that the legislature would have enacted the remainder of this section without such invalid or unconstitutional provision.

(e)

Sec. 2. K.S.A. 1996 Supp. 65-6703 is hereby repealed.