

Approved: \_\_\_\_\_

Date

4/23/99

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS.

The meeting was called to order by Chairperson Representative Susan Wagle at 2:30 P.M. on March 31, 1999 in Room 313-S of the Capitol.

All members were present except: Rep. Dahl, excused

Committee staff present: Theresa Kiernan, Revisor of Statutes  
Mary Galligan, Legislative Research  
Russell Mills, Legislative Research  
Judy Swanson, Committee Secretary

Conferees appearing before the committee: Mary Kay Culp, Kansas Catholic Conference  
Barbara Saldivar, Kansans For Life  
Bonnie Fritts

Others attending: See attached list

Hearing was opened on **HB 2007**, Partial birth abortion and abortion. Revisor Theresa Kiernan reviewed the bill for Committee members.

Mary Kay Culp, Kansas Catholic Conference, presented testimony on behalf of Beatrice Swoopes. (Attachment #1) They support the bill and especially support the sections pertaining to the definition of "viability". The Kansas Catholic Conference supports any measure that protect unborn babies.

Barbara Saldivar, Kansans For Life, testified in favor of **HB 2007**. The people of Kansas do not want Kansas to be known as a mecca for late-term abortions. She asked for an end to the killing of viable late-term babies. (Attachment #2)

Written testimony was received from Jessica Travis, National Organization for Women, in opposition to the bill. (Attachment #3).

Bonnie Fritts shared with the Committee the fact that she had been conceived from a rape, and she was happy not to have been aborted. She said life is a gift that is most precious, no matter how it begins. (Attachment #4)

Committee questions followed. Kansas stands alone with the definition of "viability", and it seems to be tailor made for abortions per Culp. It was the intent to stop abortions on viable infants last year, but somewhere in the process the law has been interpreted to do partial birth abortions on late-term pregnancies.

Chair Wagle presented a Substitute balloon for **HB 2007** which repeals the section on partial birth abortion. It also has a new definition of viability. The Revisor said she will make several changes in the bill to clean-up the language. Impairment of major bodily functions includes mental health. "Clinical abortion" refers to the pre-1992 law, therefore "an abortion in violation of K.S.A. 65-6703" is used.

Representative Wagle moved to adopt the balloon with conforming language as a Substitute for **HB 2007** and have the effective date be on publication in the Kansas Register. Rep. Vining seconded the motion. The motion passed by 12-8. Rep. Henderson requested to be recorded as voting NO.

Rep. Klein said last year there were fewer abortions performed at 22 weeks plus, and he wanted the Committee to consider that fact when working this bill. Rep. Wagle reminded the Committee that a partial birth abortion is a third trimester abortion done because the baby is too developed to do any other type of an abortion. Klein said action on this bill should be slowed down. Burroughs said he thought the bill is on a "fast track train" and too narrow sided. Wagle said she was not trying to put the bill on the fast track and the bill had been in Committee for most of the session. Rep. Benlon felt she had not had enough time to study **Sub. HB 2007**, and would like another day before action would be taken. Rep.

Wagle said she thought it too urgent to wait another day. Rep. Peterson also wanted another day for consideration. Chair Wagle said Committee members still had the opportunity of debating the bill on the Floor of the House. Rep. Gilbert felt too many balloon bills on abortion had been offered.

Rep. Freeborn made a motion to recommend **Sub. For HB 2007** as amended and with proper clerical changes favorable for passage. Rep. Mason seconded the bill. The bill passed. Reps. Klein, Benlon, Findley, and Gilbert all requested to be recorded as voting NO. Reps. Mays, Faber and Vining all requested to be recorded as voting YES.

The meeting adjourned at 3:30 P.M.

HOUSE FEDERAL & STATE AFFAIRS  
GUEST LIST

DATE: 03-31-99

NAME	REPRESENTING
Barb Seldman	Kansans for Life
Bruce Dimmitt	u u u
Cleta Renyon	Right to Life of Ks.
Mary Kay Cline	K's Catholic Cong.
Brian T. Baker	Intera
Pat Lehman	KSFSH
Natalie Haag	Governors Office
Jamie Williams	Governors Office
Debra Hostes	PPKIM

## TESTIMONY

**H.B. 2007**

HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

Wednesday – March 31, 1999 – Room 313S

### **KANSAS CATHOLIC CONFERENCE**

Beatrice E. Swoopes, Programs Director

Chairperson Wagle, committee members, I am Beatrice Swoopes, Programs Director of the Kansas Catholic Conference, which represents the Roman Catholic Bishops of Kansas. Thank you for the opportunity to speak in support of H.B. 2007 which restricts post viable abortions, and bans partial birth abortions.

First of all we commend the Interim Judiciary Committee for its efforts in attempting to answer concerns resulting from the passage last year of similar legislation, (H.B. 2531). H.B. 2007 is the culmination of that effort.

As we see it H.B. 2007 retains the major portion of the law passed last year. This new version serves to "clean-up" inconsistencies pertaining to definitions and eliminates duplicity where needed.

We especially support the sections pertaining to definition of "viability"; the second doctor requirement; limited exceptions; determining gestational age, and reporting requirements.

We as Catholics believe all human life is sacred. We celebrate life from conception to natural death. In Pope John Paul II's Encyclical, *Evangelium Vitae*, he states: "It is impossible to further the common good without acknowledging and defending the right to life, upon which all the other inalienable rights of individuals are founded and from which they develop."

That belief is carried further in the recent statement by the United States Bishops, "Living the Gospel of Life: A Challenge to American Catholics". The bishops state: "Bringing a respect for human dignity to practical politics can be a daunting task ... Good people frequently disagree on which problems to address, which policies to adopt and how best to apply them. But for citizens and elected officials alike, the basic principle is simple: We must begin with a commitment never to intentionally kill, or collude in the killing, of any innocent human life, no matter how broken, unformed, disabled or desperate that life may seem ... Direct abortion is never a morally tolerable option. It is always a grave act of violence against a woman and her unborn child."

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Attachment #14



I am here today because it is the Church's role to call attention to the moral and religious dimensions of secular issues, to keep alive the values of the gospel as a norm for social and political life.

By restricting abortion, especially late term, some babies will be saved. H.B. 2007 is working toward that end. ~~\_\_\_\_\_~~

*X* If we would make changes in the bill it would be as it relates to the ban on partial birth abortions. From the initial introduction of this proposal in the Kansas legislature the Kansas Catholic Conference lobbied for the federal language passed by both houses of Congress (copy attached).

Even Governor Graves endorsed this language as evidenced in a letter to President Clinton, September 22, 1997, urging him to sign H.R. 1122. He stated: "I am writing to express my strong support for the partial-birth abortion ban contained in H.R. 1122...".

So if a meaningful partial-birth abortion ban were to be enacted in Kansas, our recommendation would be to go with the language that works.

The Kansas Catholic Conference support measures that protect unborn babies. We urge you to vote H.B. 2007 favorable for passage.

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# **Partial-Birth Abortion Ban Act of 1997**

105 H.R. 1122

FULL TEXT

105<sup>TH</sup> CONGRESS; 1<sup>ST</sup> SESSION  
IN THE 105<sup>TH</sup> CONGRESS  
AS ENROLLED :

H. R. 1122

1997 H.R. 1122; 105 H.R. 1122

## SYNOPSIS:

An Act To amend title 18, United States Code, to ban partial-birth abortions.

DATE OF INTRODUCTION: MARCH 19, 1997

DATE OF VERSION: OCTOBER 9, 1997

— VERSION: 5

## TEXT:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Partial-Birth Abortion Ban Act of 1997".

### SEC. 2. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.

(a) IN GENERAL.—TITLE 18, UNITED STATES CODE, IS AMENDED BY INSERTING AFTER CHAPTER 73 THE FOLLOWING:

"CHAPTER 74 - PARTIAL-BIRTH ABORTIONS

"Sec.

"1531. Partial-birth abortions prohibited.

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“(a) Any physician who, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than two years, or both. This paragraph shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury. This paragraph shall become effective one day after enactment.

“(b) (1) As used in this section, the term ‘partial-birth abortion’ means an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.

“(2) As used in this section, the term ‘physician’ means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions: Provided, however, That any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provisions of this section.

“(3) As used in this section, the term ‘vaginally delivers a living fetus before killing the fetus’ means deliberately and intentionally delivers into the vagina a living fetus, or a substantial portion thereof, for the purpose of performing a procedure the physician knows will kill the fetus, and kills the fetus.

“(c) (1) The father, if married to the mother at the time she receives a partial-birth abortion procedure, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff’s criminal conduct or the plaintiff consented to the abortion.

“(2) Such relief shall include-

“(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

“(B) statutory damages equal to three times the cost of the partial-birth abortion.

“(d) (1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on whether the physician’s conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness or injury.

“(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

“(e) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate section, or for an offense under section 2, 3, or 4 of this title based violation of this section.”

(b) CLERICAL AMENDMENT — THE TABLE OF CHAPTERS FOR PART I OF TITLE 18, UNITED STATES CODE, IS AMENDED BY INSERTING AFTER THE ITEM RELATING TO CHAPTER 73 THE FOLLOWING NEW ITEM: “74. Partial-birth abortions 1531.”

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## TESTIMONY IN SUPPORT OF HOUSE BILL 2007

Madam Chairman and Members of the Committee:

Thank you for the opportunity to address the committee in support of House Bill 2007.

Kansans for Life has long called for an end to late-term abortions in the state, and more recently, an end to the gruesome partial-birth abortion procedure. Last year, it was the Legislature's intent to ban the killing of viable late-term babies in Kansas. Unfortunately, the partial-birth section of that bill had the fatal flaw of a "mental health" exception included. The recently released KDHE statistics showed that, as a result, 58 partial-birth abortions were performed and all for the reason of "mental health."

The interim Judiciary committee met several times last year to discuss the legislative intent of the law and correct any language that was being interpreted as allowing the partial-birth procedure to be performed on viable babies. The result of the committee's efforts is found in House Bill 2007.

Kansans for Life is a grass roots organization and we know that the people of Kansas do not want the state to continue to be known as a mecca for late-term abortions. In addition, Kansans abhor the partial-birth abortion procedure and are outraged that it is being performed in their state. Last month, KFL delivered petitions with over 8,000 signatures on them to the governor and state legislators calling for an end to partial-birth abortions in Kansas.

House Bill 2007 clarifies the intent of the Legislature to stop late-term and partial-birth abortions in Kansas. On behalf of the tens of thousands of members of Kansans for Life, I ask you to support the bill and put an end to the killing of viable late-term babies. Thank you.

Barbar Saldivar, KFL Lobbyist

*House Fed + State  
03-31-99  
Attachment #2*



Kansas affiliate to the National Right to Life Committee



# National Organization for Women

## STATEMENT IN OPPOSITION TO HB 2007

before the  
**House State and Federal Affairs Committee**

March 31, 1999

by  
Jessica Travis, Lobbyist

The Kansas members of the National Organization for Women are opposed to HB 2007 because it unconstitutionally restricts a woman's right to make reproductive decisions. Under section 5, the bill extends the ban on partial birth abortion to all fetus, regardless of viability. In Roe v. Wade, the United States Supreme Court held before the fetus has reached viability the woman is the controlling decision maker in making reproductive choices. By extending to include a ban on pre-viability partial birth procedures, HB 2007 intrudes into this time frame and violates a woman's constitutional right to privacy.

Further, HB 2007 unconstitutionally burdens a woman seeking to exercise her right to make reproductive choices. In Casey v. Planned Parenthood, the United States Supreme Court stated that a state may not "unduly burden" the woman's right to make reproductive decisions. HB 2007 eliminates an exception to the partial birth ban that protects the health of the pregnant woman. In essence, the bill is stating that the potential life of a most likely deformed fetus that may or may not be viable is more important than the health and quality of life of a living woman. By excluding a health exception, HB 2007 unduly burdens a woman seeking to exercise her constitutional right to make reproductive decisions.

It is on these grounds that the Kansas Members of the National Organization for Women request that the House State and Federal Affairs committee reject unconstitutional changes proposed by HB 2007.

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Attachment #3*

Testimony by Bonnie Fritts before the House Committee on Federal and State Affairs,  
March 31, 1999.

Madam Chair, ladies and gentlemen,

My name is Bonnie Fritts. Thank you for allowing me this opportunity to address this committee. Although I am completely opposed to abortion for any reason, this bill is reasonable as long as it excludes the physical characteristics of the baby and the mental health of the mother as justification for obtaining an abortion.

I am extremely happy and fortunate to be here for many reasons; one of which is, for people like me, life is rare. I say "rare" because people who are conceived in the manner that I was, are more often than not, aborted. You see, I am the result of rape. My birth mother was beaten into submission, by her stepfather, on more than one occasion, yet, somehow, she found the strength and the courage to allow me to live. She put her own feelings aside, she left her home, changed her name, found a job to support herself, lived in a Boarding House, found a church that helped arrange my adoption, gave birth to me, paid her own medical bills, and gave me to a good family who wanted children but could not have their own. Adoption is a way to create some very wonderful families. I feel that even though I was not born *INTO* this family, I was born *FOR* this family.

Why did my birth mother do all of this? Because she knew that I was innocent and did not deserve to meet with a violent death because of the horrendous act of violence committed by her attacker!...and, she knew that the painful memory of her ordeal could not and would not be erased by terminating her pregnancy.

I was born in 1956 and although abortion was not yet legal, it was certainly available. It might have been easier and cheaper for my birth mother to take this route, but I want to

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stress the fact that it took a tremendous amount of strength and courage for her to follow the path she did, and strength and courage have never been anything to be ashamed of. I will be eternally grateful for the priceless gift of life that she gave me.

Having strength and courage should be a characteristic that is demonstrated proudly and continuously, not matter how difficult it may be, and this example will help prepare future generations to become strong leaders and productive members of society. This is a valuable trait we don't see enough of. The easy way out is rarely the best way out, and the easy way out is for the cowardly.

I hope, that as a mother and grandmother, I have passed along to my children, and they to their children, the same values that my birth mother unknowingly passed on to me. *That life is a gift that is most precious, no matter how it began.*

Please, put an end to this abortion holocaust. Snuffing out innocent lives should not be a solution to *short term* problems, it only compounds it. There are better alternatives to unplanned and unwanted pregnancies, and that is what we should be discussing. With the knowledge and information we have today and the assistance that is available to those in need, there is no reason for anyone to ever feel that abortion is the only answer.

As I walk among you, I can't help but wonder who, of you, think I am not worthy of life? Who, of you, would have prescribed, and even encouraged, my birth mother to get an abortion thinking it would speed up the "healing process"? And why are those of us that are conceived in a violent manner, less worthy of life than those who are conceived in an acceptable way?

Who are we to decide who is worthy of life and who is not? Thank you.