

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS.

The meeting was called to order by Chairman Tony Powell at 1:30 p.m. on January 20, 2000 in Room 313-S of the Capitol.

All members were present.

Committee staff present:

Theresa Kiernan, Revisor of Statutes
Russell Mills, Legislative Research
Mary Galligan, Legislative Research
Winnie Crapson, Secretary

Conferees appearing before the committee:

Rep. Vining, Proponent
Sen. Harrington, Proponent
Jared Pingleton, Ph. D., Proponent
David Gittrich, Kansans for Life, Proponent
Beatrice Swoopes, Kansas Catholic Conference, Proponent
Karyl Graves, Wee Life Inc., Proponent
Catherine Miglionico, R.N., Proponent
David Riley, M.D., Proponent
Mary Petrow, Opponent
Gloria Schlossenberg, Opponent
The Rev. George Gardner, Religious Leaders for Choice, Opponent
Barbara Duke, Kansas Choice Alliance and American Association of University Women, Opponent
Barbara Holzmark, National Council of Jewish Women, Opponent
Carla Norcott-Mahany, Planned Parenthood of Kansas and Mid-Missouri, Opponent

Written testimony was distributed from:

Concerned Women of America, Proponents
League of Women Voters of Kansas, Opponents
Mainstream Coalition, Opponents

Others attending: See attached list.

Hearing was opened on

HB 2581, Abortion; partial birth abortion; limitations.

Rep. Vining testified in favor of the bill (Attachment #1). She stated the language in the bill is the same as that in Wisconsin and Illinois statutes found to be constitutional by the 7th Circuit in *Hope Clinic v. Ryan*, 195 F.3d 857 (1999). That Court recognized the term "partial birth abortion procedure" as being the layperson's definition for D&X (dilation and extraction). She provided from 112 *Harvard Law Review* 731 Case Notes on *Women's Medical Professional Corp. v. Voinovich*, 130 S 3d 187 (6th Cir 1997).

Sen. Harrington testified in favor of the bill (Attachment #2). She stated the language is identical to that in SB367 which she introduced in the Senate which is a model fashioned from the Congressional language. She stated there appear to be two core controversies surrounding the partial birth abortion debate: the actual procedure itself, and whether states have a right to ban the procedure. She reviewed the opinion of Judge Frank Easterbrook writing for the majority in the 7th Circuit decision in *Hope Clinic*.

Dr. Jared Pingleton, a Licensed Clinical Psychologist, testified and presented written testimony in favor of the bill (Attachment #3). His testimony stated with regard to "Mental Health Exceptions for Late Term Abortion Legislation", the law as currently written which allows for a late-term abortion for the "mental health" of the mother functionally permits persons who are not licensed, trained or experienced in the diagnosis and treatment of psychological disorders to make such psychological diagnoses and that no provision is made for the treatment of these supposed, unspecified mental health disorders.

CONTINUATION SHEET

MINUTES - HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS, Jan. 20, 2000 - page 2

Dr. David Riley, a Family Physician from Overland Park, whose practice encompasses all aspects of family medicine, including obstetrics, testified in favor of **HB 2581** (Attachment #4). He stated that the whole idea of partial birth abortion is abhorrent and from a medical standpoint he can conceive of no circumstance where it would be necessary for the health of the mother; and that the procedure involved carries with it several risks. He finds the "mental health" reason for this difficult to imagine.

David Gittrich, Executive Director of Kansans for Life, testified in favor of the bill (Attachment #5). Kansans for Life is a pro-life organization of people who want legal protection for every human being from conception to natural death. They unanimously, without exception, want partial birth abortions banned because the procedure is abhorrent and should not be legal in Kansas.

Beatrice E. Swoopes, Acting Executive Director of the Kansas Catholic Conference, testified in favor of the bill (Attachment #6). She said the Kansas Catholic Conference has been on record in supporting a ban on partial birth abortion since its initial introduction in the Kansas Legislature. Specifically they have supported the federal language passed by both Houses of Congress, the language after which **HB 2581** is patterned.

Karyl Graves testified in favor of the bill on behalf of Wee Life, Incorporated, a non-profit organization dedicated to re-establishing constitutional protection and fetal rights for the pre-born (Attachment #7).

Catherine Miglionico, RN, testified in favor of the bill (Attachment #8). She described experiences working as a nurse.

Mary V. Petrow testified in opposition to the bill (Attachment #9). She described her pregnancy in 1990 which ended tragically.

Gloria Schlossenberg testified in opposition to the bill (Attachment #10). She described her experience with a pregnancy. The child was born dead.

The Rev. George Gardner, testified in opposition to the bill (Attachment #11). As Co-Chair he represented Kansas Religious Leaders for Choice, an interfaith group of men and women, clergy and laity, who believe that women should have the right to reproductive choice including the right to an abortion guaranteed in *Roe v. Wade*.

Barbara Duke, presented testimony in opposition to the bill (Attachment #12). She represented 1500 members of the Kansas Association of University Women and the twenty diverse organizations that make up the Kansas Choice Alliance. She thinks it would be wise to wait for the decision of the U. S. Supreme Court on Nebraska's similar ban on partial birth abortion before amending Kansas' current law.

Barbara Holzmark, Kansas Public Affairs Chair of the Greater Kansas City Section of the National Council of Jewish Women, testified in opposition to the bill (Attachment #13). NCJW believes each woman can be trusted with decisions that pertain to her own reproductive health concerns and believes this is not the time to legislate on this matter with the Supreme Court reviewing the Nebraska law.

Carla Norcott-Matheny presented the testimony of Erika Fox, Vice President for Public Policy of Planned Parenthood of Kansas and Mid-Missouri, in opposition to the bill (Attachment #14). PPKM-M believes that prior to the decision by the Supreme Court it is highly irresponsible for the Kansas Legislature to consider passing a new law that is almost identical to the Nebraska law the Supreme Court is reviewing.

Written testimony was submitted by Concerned Women of America in favor of **HB 2581** (Attachment#15).

CONTINUATION SHEET

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Written testimony was submitted by the League of Women Voters of Kansas in opposition to the bill (Attachment #16).

Written testimony was submitted by Ann Heberger of Main Stream Coalition in opposition to the bill (Attachment #17).

HB 2581 was discussed by the committee.

Representative Klein asked Representative Vining if the bill proposes to ban only the D&X procedure. He believes it is written in such a way that is not clear. Rep. Vining said the language is from National Right to Life based upon what is considered constitutional.

Representative Cox stated the bill did not contain the word "ban". Chairman Powell stated since a partial birth abortion is never medically necessary to preserve the life of the mother, that does ban it..

Representative Rehorn had technical questions concerning parties in possible civil actions. Chairman Representative Powell said Representative Rehorn's interpretation seemed plausible that a civil action could be maintained by the mother or father whether or not the mother is 18 and by grandparents if the mother is under 18. Rep. Vining stated she believed there needed to be an interpretation of that.

Representative Mays addressed questions to Rev. Gardner concerning the position of the United Methodist Church and other denominations. Rev. Gardner stated there are a variety of points of view among denominations as interpreted from their history and doctrine and how their faith has come down to them.

Representative Burroughs distributed a letter addressed to him from Betty Jane Anderson, Special Counsel, Health Law Division of the American Medical Association, dated January 20, 2000, stating that the American Medical Association does not take positions on state legislative proposals (Attachment 18).

Chairman Powell declared the hearing on HB 2581 closed and the Committee adjourned at 3:30 p.m. The next scheduled meeting is January 24.

HOUSE FEDERAL & STATE AFFAIRS

GUEST LIST

DATE: Jan. 20, 2000

NAME	REPRESENTING
Carla Norcott - Mahan	PP - KM
Cathy Boyer - Thebes	Natl. Council of Jewish Women
John Hingst - Wichita	KFL Kansans For Life
Linda Hingst - Wichita	KFL " "
Marie Monia Topelka	KFL " "
KARUL GRAVES	Wee Life, INC.
Debra Schlossberg	KCA
Dorlene Fern Stearns	League of Women Voters
Gene Thompson	—
Rev. Deann Smith	Religious Leaders for Choice
Rev. George T. Gardner	Religious Leaders for Choice
Fred Hobson (Rev.)	Kansans For Life
Arlene Hobson	Kansans for Life
Barbara Duff	AAUW ; Ks Choice Alliance
Janie Whitley	Am. Assn. of University Women
Bill Jenks	Alpha Christian Childrens Home / PRO Life!
Tom & Karen Barlow	Pro Life
Larry & Evelyn Peterson	Pro Life
Betty Thompson	—

M
Wayne Stringen
Kathi Marling
Sandra Snyder

Pro life FT Scott
KFL
SABC - Pro Life

NA NI - NS

HOUSE FEDERAL & STATE AFFAIRS
GUEST LIST

DATE: _____

NAME	REPRESENTING
Jeff Botkinberg	Kansas Peace Officers Ass'n
Jennifer Latham	Kansans for Life
Carole Denton	Pro-Life Voter
Sarah Hingst	Pro-lifer
Mary Hingst	Ks For Life
Shar Hoffman	Concerned Women for America - KS
Judy Smith	"
Eileen Larson	KS Choice Alliance
Jean Rosenthal	KS Choice Alliance
Sylvie J. RUEFF	PRO-CHOICE
Kay Teiser	Kansans For Life
Theresa Barker	Kansans for Life
R. E. Wells	" " "
Nancy Wells	KFL God's truth for life Hutchinson
Amanda Shea	Trinity Pro-Life
Rebecca Doeden	" " "
Melissa Skolaut	" " "
Lori Bajewski	" " "
Debbie Schlack	Kansans For Life

HOUSE FEDERAL & STATE AFFAIRS
GUEST LIST

DATE: _____

NAME	REPRESENTING
Darrell Schlabach	Kansans for Life
FRANCES COLEMAN	" "
RICHARD COLEMAN	" "
Richard Mullen	" "
Jan Whipple	Pro-Life
Monica Bergkamp	Hutchinson Trinity PRO-LIFE
melanie Bergkamp	" "
Rachel Barnes	" "
Bruce Dimmitt	KFL
Gary Grimes	"
Kathy Bajek	KFL
Michael Bajek	KFL
Susan M. Ruhnke	KFL
Joan M. Banning	KFL
Nadine Oberle	Kansans for Life
Larry Bolyard	HKFL and KFZ
Anne Alexander	intern for ^{son} Nick Jordan
Kay Calvert	LWVK KAC
Ed Rowle	" "

Kari Koch	Governor's Office
Norbert Hermes	KFL
Dan Pope	KFL
Judy Bohning	HKFL
Janet Robertson	Wichita Bethlehem Maternity Home
Melaine Hermes	KFL
Lois Snyder	Pro Life
George & Ann Piette	RL Coords, Holy Trinity Seneca
Laurie Williams	
Duane Simpson	Speaker's office
SOFF JARVON	KARL
Tim Kemp	KARL
Sandi Coleman	KFL
Dennis Martin	HKFL
Don Martin	HKFL
Don Vopshy	KFL
Marilyn D. Stubb	KFL
Haydi Jensen	Kansas For Life
Marcia Roor	KFL
Jim Zarybnicky	HKFL
Jennifer Wineinger	KFL
Jessie Siegfried	KFL
Geraldine Mann	Pro Life
Harold Miller	Pro Life
Caul Miller	Pro Life
Ralph Miller	Pro Life
Sandra Miller	Pro Life

Carolyn Litwin	Majority for choice
Dorothy L. Harder	League of Women Voters
Darlene Gear Skarner	League of Women Voters of Kansas
Summer McLean	Kansans for Life
Trina Heath	Pres. Wichita NOW - Director Wichita Family Planning
Dena Vogler	Women's Health Care Services, Wichita Kp.
Millicent Martin	Intern Sue Storm
Delma Martin	Kansans for Life ; Birthline
Barbara Harrison	Kansans for Life
Phyllis J. Walters	Kansans for Life
LARRY R. WALTERS	KANSAS for Life
Brenda Snyder	Seward Ave Bapt Church KFL
Sharonne Kentch	Pro-Life
John & Lennie Agin	Pro life
Leanna Denton	Kansans 4 Life
Dan Denton	Pro life
Kenny Saldivas	Kansans for Life
Sarah McCraw	Kansans for Life
Kim Boucher	Pro-Life
Jessica Lammers-Meis	Advice & Aid Pregnancy Center (Shawnee Kansas)
Gretchen Murray-Symonds	Catholic Charities (Gabriel House)
Berri Kerpelick	Kansans for Life
Pam Roudelust	Kansans for Life
Marilyn Mallech	Right To Life of K
Brian Lake	
Mary Kay Culp	Ks Catholic Conference, Merriam, KS
JANET K. STAMPER	KANSAS NOW
Sharon Heckhart	Kansans NOW

Shannon Jordan

Tom Gaumé

Dave Coleman

Mary Remus

Kathy Hume

Manfred Diederich

KS N.O.W.

Kansans for Life

PRO LIFE CITIZEN - ABILENE, KS.

Kansans for Life

Kansans for Life

KS L

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State of Kansas
House of Representatives

COMMITTEE ASSIGNMENTS
UTILITIES
FEDERAL & STATE
INSURANCE
GOVERNMENT ORGANIZATION &
ELECTIONS

BILLIE D. VINING
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TOPEKA

TESTIMONY
Before the House
FED AND STATE COMMITTEE
Chairman, Tony Powell
JANUARY 20, 2000

Thank you Mr. Chairman and members of the committee.

My name is Billie Vining, and I am a State Representative of the 90th District. I stand before you today testifying in support of HB 2581, a bill which would ban partial birth abortions in Kansas. On October 26, 1999, The United States Court of Appeals for the Seventh Circuit Decided in favor of the Defendants, Illinois and Wisconsin, in deciding whether state laws prohibiting partial-birth abortions are unconstitutionally vague or unduly burdensome to women. They concluded that both laws can be applied in a constitutional manner, but allowed for an injunctive relief that will limit the statutes' application to the medical procedure that each state insists is its sole concern. (7th Circuit Court Decision, pg. 2)

Because Wisconsin's and Illinois' partial birth abortion language is the same as the Bill presented here today, except for the penalties, I will quote from the 7th Circuit Court's decision.

That U.S. Court decision states that "some medical background is essential to understanding the issues. [As it is here today.]

"To perform a D&E, the physician dilates the cervix and dismembers the fetus inside the uterus using forceps. Fetal parts are removed with forceps or by suction." (Decision, pg. 3)

A D&X is a variant of a D&E in which the fetus is removed without dismemberment. The American College of Obstetricians and Gynecologists (ACOG) defines D&X as follows: '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.' ” (Decision, pg. 3)

The court decision went on to say that the Partial Birth Abortion procedure, the term they recognized as being the layperson’s definition for D&X, as just described, is what is at the heart of the controversy. The court says, “It is this combination of coming so close to delivering a live child with the death of the fetus by reducing the size of the skull that not only distinguished D&X from D&E medically but also causes the adverse public (and legislative) reaction.” (Decision, pg. 4)

1. Vagueness.

The district court in Wisconsin “... concluded that physicians who perform abortions recognize that the statutory formula, however vague or broad these words appear to lay eyes, refers to the D&X procedure alone.” (U.S. Ct. Decision, pg. 8)

“A more recent decision of the Supreme Court, *Chicago v. Morales*, 119 S. Ct. 1849 (1999), stresses that state courts are entitled to construe state laws to reduce their ambiguity, and that federal courts should evaluate state laws as they have been construed, not just as they appear in the statute books.

This implies that Illinois and Wisconsin are entitled to interpret their own laws – that federal courts should not enjoin all application before enforcement ... Salerno offers a potential ground for giving the states that chance.”

(Decision, pg. 9)

The arguments regarding vagueness are numerous, on page 18 of its decision, the U.S. Court said, “The constitution provides the assurance they [the plaintiffs] crave – but without the need to prevent application of the state law to the D&X procedure itself. States have a powerful interest in working out the details of their criminal laws in their own courts. See *Younger v. Harris*, 401 U.S. 37 (1971) ...

The path we choose allows the states to interpret their laws and supply more concrete rules.” (Decision, pg. 19)

2. Unduly burden women’s rights.

“... we believe that state courts are entitled to accept the view of both states’ (Illinois and Wisconsin) Attorneys General that their laws do not forbid, or even affect, the D&E procedure. The question we must address, then, is whether a statute limited to D&X unduly burdens abortion.” (Decision, pg. 22)

“...we do not think that the plurality in *Casey* meant this, “the woman’s life or health,” as a universal rule, one applicable even when the procedure in question lacks demonstrable health benefits. The point that the plurality (in *Casey*) made was that a statute that lacks a “health exception” may unduly burden the woman’s right to obtain an abortion before the fetus has reached viability; when state law offers many safe options to that end, the regulation of an additional option does not produce an undue burden.”

The conclusion of the district court in Wisconsin was that the D&X procedure is “never necessary from the perspective of the patient’s health.” (Decision, pg. 23)

“Haskell, who invented the procedure, admitted that the D&X is never medically necessary to save the life or preserve the health of a woman. Giles agreed.” (pg. 23)

Sprang & Neerhof..., “Am. Medical Ass’n at 746 said (Intact D&X [partial-birth abortion]) should not be performed because it is needlessly risky, inhumane, and ethically unacceptable.” (pg. 23)

“The ACOG’s 1997 says in part, [the] “... D&X [procedure] is never the only medically appropriate option...” (pg. 24.)

“ ‘undue’ rather than ‘burden’ is the key word” that the Supreme Court will apply. There are already ‘burdens’ placed on women, such as waiting periods, information requirements, parental approval or consultation requirements, and physician-only rules) that the Court has sustained ...” (pg. 28)

“We proceed on the assumption, ... shared by the AMA, that the D&X is not the best or safest option in any articulable category of situations. The AMA’s Policy H-5.982 concludes ... that ‘there does not appear to be any identified situation in which intact D&X is the only appropriate procedure to induce abortion.’ ” (pg. 24)

“The question in the end is not what one or another judge found on a given record; it is whether the state legislature exceeded their constitutional powers.” (pg. 25)

“Thus we treat the findings in the Wisconsin case, like the view of the AMA, not as replacements for legislative conclusions, but as establishing that there is real, and not just hypothetical, support for a belief that the partial-birth abortion laws do not pose hazards to maternal health.” (pg. 25)

“As things stand, however, interference with the operation of the state laws cannot be justified on the ground that the D&X procedure is necessary to protect women’s health.” (pg. 26)

Because, “Even for the class of women who seek late-second-trimester abortions, there is always one or more other safe methods of abortion in addition to D&X. (pg. 28)

In saying this, and much more, the Court entered judgment for the defendants.

Sen. (2)
Nancy
Harrington

Testimony before the
House Federal and State Affairs Committee
concerning HB 2581
January 20, 2000

HB 2581 - a bill to ban Partial Birth Abortions in Kansas is identical to the language in SB 367, of which I introduced in the Senate.

The language proposed in both bills is model language fashioned from the Congressional language. The 7th Circuit Court of Appeals in October of 1999 held the states of Wisconsin and Illinois Partial Birth Abortion bans as constitutional. Both of those state laws, as well as the state of Indiana which also sits in the 7th Circuit and has had that states Partial Birth ban unchallenged, and in place since 1997, used the same model language that is used in HB 2581 and SB 367.

There appears to be two core controversies surrounding the Partial Birth Abortion debate. One is the actual procedure itself. The second is whether states have a right to ban the procedure.

The American Medical Association in testimony provided before Congress, also published in the AMA's journal and reiterated by Judge Frank Easterbrook writing for the majority in 7th Circuit decision that the D & X (Partial Birth Abortion) procedure is not the best or safest option. That there does not appear to be any identified situation in which intact D & X is the only appropriate procedure to induce abortion.

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Judge Easterbrook also noted that the Partial Birth Abortion comes “so close to delivering a live child, with the death of the fetus by reducing the size of the skull not only distinguishes D & X from the D & E dilation and (extraction used in 2nd trimester abortions) medically but also causes the adverse public (and legislative) reaction.”

Opponents deem the D & X procedure “needlessly cruel and bordering on infanticide.”

There are other procedures available, therefore the ban does not create an undue burden.

The second controversy surrounding Partial Birth Abortions are what provisions the U.S. Supreme Court have given individual states regarding restrictions to abortions.

A little background is necessary in order to understand how the court addressed the states interest in the potential life of the fetus as well as the interests of the women.

In Roe vs. Wade - Justice Blackman acknowledged that states had some valid interests in regulating abortion. That only in the 3rd trimester was the state’s interest in protecting the potential life of the fetus (child) great enough to warrant severe restrictions on abortion, and even then, the court held, states must permit abortions to save a women’s life.

In the Webster decision of 1989, the Court plurality said that interest could be affected, consistent with the Constitution, whenever the state had a sufficient countervailing interest. Roe had said that the state’s interest in protecting potential life increased in weight as the pregnancy advanced. The plurality rejected that analysis and insisted that the state’s interest

in protecting potential life was of equal weight throughout the pregnancy.

The plurality opinion did not explicitly overrule Roe v. Wade, although the analytic framework it established appears to authorize states to adopt any regulations they desire to promote the interest in protecting potential life.

In the Casey decision of 1992 the Court invoked the “undue burden” test of Webster to sustain most of the Pennsylvania law. I have included for the members a copy of the Pennsylvania law. Justice O’Connor wrote for the plurality that waiting periods were a “small cost to impose to ensure that the women’s decision is well-considered in light of its certain and irreparable consequences on fetal life.”

Now returning to the proposed language in HB 2581 (and SB 356.)

The bill is an attempt to ban the Partial Birth Abortion procedure in Kansas. When the first reporting cycle was released by the Department of Health and Environment last March, there were 58 Partial Birth Abortions reported. I would like to point out that of those 58 abortions, none were Kansas residents.

The penalty phase in HB 2581 (and SB 367) differ from those in Wisconsin and Illinois. The penalties are the only differences in the laws. The Kansas language is in current law, which is presumptive probation on the 1st violation, and a possible maximum of 29 months for the

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second offense.

Wisconsin law requires life imprisonment. Illinois maximum is 3 years in prison.

In closing I would like to point out to the members, the 6th Circuit Courts decision regarding the state of Ohio's ban. According to a January 1999 Harvard Law Review the 6th Circuit Court repeatedly changed its interpretive position in order to push the law toward unconstitutionality. And that the 6th Circuit turned the Supreme Court's "Cardinal principle" on its head of statutory interpretation; that courts should attempt to find any "fairly possible" constitutional interpretation of a law, rather than hold it unconstitutional.

Also, in another writing provided to me by Dr. Kermit Hall, editor of the "Oxford Guide to U.S. Supreme Court Decisions." When in 1997 the 6th Circuit Court of Appeals struck down the Partial Birth Abortion ban of Ohio, noting that the Ohio law in question contained an exception for the mother's physical health, but not her mental health. In the 1970's, the Supreme Court interpreted maternal health to include psychological and emotional well-being. Based on this broad definition, the 6th Circuit predicted that today's Court would hold that a woman has a right to abortion whenever carrying the child to term would pose a serious threat to her mental health. If the Court agrees that the Constitution requires a mental-health exception to late-term-abortion restrictions, it will undermine the central holding of the 1992 Casey decision which stressed that after viability, the fetus's interest in life may trump the mothers potential distress.

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I would respectfully request the Committees support of HB 2581, a real ban on Partial Birth Abortions in Kansas.

C ✓

Expert Testimony of
Jared P. Pingleton, Psy.D.
Licensed Clinical Psychologist
KANSAS STATE SENATE
January 20, 2000

RE: Mental Health Exceptions for Late Term Abortion Legislation

A. Definitive Problems:

1. The Doe vs. Bolton decision never clearly or specifically defined "health" vis-a-vis the mother's abortion of her child.
2. Martin Haskell, M.D, has testified in U.S. Congressional hearings that he never once performed a late-term abortion for the mother's health -- mental or physical.
3. As is currently written, legislation which allows for a late-term abortion for the "mental health" of the mother functionally permits persons who are not licensed, trained or experienced in the diagnosis and treatment of psychological disorders to make such psychological diagnoses in an unethical, illegal and possibly dangerous manner. Furthermore -- and most significantly -- no provision is made for the treatment of these supposed, unspecified mental health disorders.

B. Conceptual Problems:

1. No proof exists that intrinsically severe mental/emotional trauma ensues from the pregnancy and delivery of a child.
2. Logical non-sequitur: If part of the baby can be delivered without causing mental/emotional trauma, then why can't the rest of the baby be delivered resulting in a viable birth?
3. In no other realm of mental health does the supposed or alleged mental/emotional well being of one person necessitate the harm, suffering, traumatization, or destruction of another.

January 20, 2000

My name is David Riley. I am a Family Physician from Overland Park, Kansas. My practice encompasses all aspects of Family medicine, including obstetrics. It is in that capacity I am asked to testify today.

Let me begin by stating clearly that I am Pro-Life. In the course of my practice, I have had patients come to me who are wanting to adopt a baby and asking my assistance. I have had couples desperately wanting to have a baby and are unable to do so. I have struggled with patients who are at risk of miscarriage and are doing all within their power to continue a difficult pregnancy. I have delivered babies as much as 12 weeks premature and been amazed at their fight for life. I have rejoiced with parents over the birth of their newborn babies. I have mourned with parents who have lost a baby early in pregnancy, and I have grieved with parents who have lost a young infant to SIDS. All of these experiences underscore to me the value of life.

The life of a human being follows a continuum from complete and total dependence to independence and back again to dependence. At no point on that continuum does this person suddenly "become" alive. He is alive from the start. He is growing, maturing, requiring nutrition, and interacting with his environment. As maturation proceeds, the level of dependence decreases. When he is born, he is still dependent on his parents and would be unable to survive on his own without their assistance. It is nonsensical to say that now this person has value, and that to end his life after he is born would be murder when just minutes before birth his life could be taken and it would be "abortion" and therefore okay in the eyes of the law.

With that in mind, the whole idea of Partial-Birth Abortion is abhorrent. From a medical standpoint, I can conceive of no circumstance where it would be necessary for the health of the mother. In fact, the procedure involved in partial-birth abortion carries with it several risks. The forcible dilation of the cervix can increase the risk of infection. The process of converting the baby to breech position can cause shearing of the placenta and risk of amniotic fluid embolism in the mother. Using sharp scissors to pierce the skull of the baby can cause potential trauma to the mother's cervix, as can shards of bone from the baby's skull as it is compressed. This could also risk causing severe internal infection or massive hemorrhage with the need for hysterectomy. Future fertility could suffer from the risk of an incompetent cervix causing premature deliveries in subsequent pregnancies. One of my colleagues who was unable to be here today had done some research in this area and provided me with information that the risk of maternal death is 1 in 6,000 for abortions at 21 weeks or later, but only 1 in 13,000 for childbirth. Obviously, these risks are significant.

The concept of a "mental health" reason for this is also difficult to imagine. Even in cases of severe post-partum depression, where you have a newborn infant completely dependent on the parents, the solution is never to kill the baby so mom can get on with life. A

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My name is David Gittrich. I am the Executive Director of Kansans For Life. Kansans For Life is a pro-life organization comprised of people who want abortion, the killing of a human being – a human offspring, to be once again illegal in Kansas. We want legal protection for every human being from conception to natural death.

KFL has identified over 125,000 households of pro-life people. That is households, not individuals. Since there are 125 representatives, this means we have an average of 1,000 households of pro-life people per district and we are still growing.

These people unanimously, without exception, want partial-birth abortions banned. This procedure is abhorrent and should not be legal in Kansas.

There is no medical reason to perform a partial-birth abortion. The American Medical Association and common sense confirm this. In a PBA the baby is partially delivered, except for the head, and then the skull is punctured and the brains of the child are suctioned out. The baby is 3 inches from birth. 3 inches between life and death. Pull or suction is the question. Life or death.

We support this legislation as it is. This legislation has been modeled after the legislation that was passed in Wisconsin, Illinois and Indiana. These bills were recently upheld as constitutional by the 7th Circuit Court of Appeals. Rep. Vining has details, but this bill has been upheld as constitutional and that would be in jeopardy if it was changed.

Some have question why we would want this bill passed since this question is under consideration by the Supreme Court. The answer is, we need to send a message to the members of the Supreme Court stating that Kansans do not want partial-birth abortion. We should add our voice with the 30 other states that have passed bans on partial-birth abortion, with the 2/3 of the House of Representatives in Washington and the nearly 2/3 of the United States Senate who have passed bans on partial birth abortion, and we need to represent the 84% of the general public who believe partial birth abortions should be illegal. We should send a strong message concerning our abhorrence with this grisly procedure.

We also have a responsibility to the people of Michigan and Arizona who were appalled that Kansas would allow a partial-birth abortion on children 27 weeks and 26 weeks respectively. Kansas is becoming a national shame concerning partial-birth abortions.

I have heard the comment that there is a danger in outlawing certain medical procedures. I want to say that any medical procedure that kills a human being should be outlawed.

Some might argue that this is a rare procedure. Rare like deaths from seat belts or deaths from air bags, or deaths from handguns, yet we do not have a problem considering those issues.

The true danger is in using the terms health and mental health without specific definition. Undefined, health is the loophole that allows every abortion – no restrictions whatsoever. And, mental health is even worse than just health, because it is so difficult to define. Since there is no justification for this procedure, it should be banned – period.

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The Governor has spoken of a veto concerning this legislation. However, each elected official must decide for themselves the merit of legislation. This bill is what the people of Kansas want. When it arrives on the Governor's desk, we feel confident that he will sign it. The Governor sent a letter to the President of the United States supporting a ban on partial-birth abortion and we believe he will sign this into law.

Finally, I want to mention the obvious that children are our future. Children are our greatest natural resource. Kansans are proud of their children. More proud of their children than their wheat or airplanes. Children, and all human beings, have an inherent dignity and value that was recognized by the founders of this country when they said, we are endowed by our creator with certain inalienable rights and among these are life, liberty, and the pursuit of happiness. We encourage you to support this legislation for our future and for our children.

Questions?

Thank you very much for your time.

In truth, partial-birth abortion is infanticide – the killing of an infant.

TESTIMONY

H.B. 2581

HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
Thursday – January 20, 2000 – Room 313S

KANSAS CATHOLIC CONFERENCE

Beatrice E. Swoopes, Acting Executive Director

Chairperson Powell, committee members, I am Beatrice Swoopes, Acting Executive 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. 2581**, which would ban Partial-Birth Abortions in Kansas.

In the Catholic social vision, the human person is central, the clearest reflection of God among us. We celebrate life from conception to natural death. As Pope John Paul said in his encyclical *Evangelium Vitae*: "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."

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.

The Kansas Catholic Conference has been on record in supporting a ban on partial-birth abortion since its initial introduction in the Kansas Legislature. Specifically, we have supported the federal language passed by both houses of Congress. **H.B. 2581** is patterned after that language.

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In an article written jointly by James Bopp, Jr., J.D., and Curtis R. Cook, M.D., "Partial-Birth Abortion: The Final Frontier of Abortion Jurisprudence" the rationale for our support is clearly stated:

Partial-birth abortion bans patterned after the federal bill passed by both houses of Congress are constitutional. The clear legislative definition can be easily distinguished from other abortion procedures. Abortion precedents do not apply to such bans because the abortion right pertains to unborn human beings, not to those partially delivered. Such bans are also rationally related to legitimate state interests. Even if abortion jurisprudence is deemed to apply in the partial-birth abortion context, a ban is still constitutional under Casey because a ban on partial-birth abortions does not impose an undue burden on the abortion right.

So if a meaningful partial-birth abortion ban is to be enacted in Kansas, our recommendation would be to go with the language that works, **H.B. 2581**.

The American Medical Association, former U.S. Surgeon General C. Everett Koop, and other medical authorities agree that partial-birth abortion is **never** medically necessary. In fact, the procedure can significantly threaten a mother's health and her ability to carry future children to term. The American Medical Association also has judged the procedure "not good medicine".

The truth is partial-birth abortion is as close to infanticide as you can get. A living fetus is intentionally and deliberately given "partial-birth" for the purpose of killing it. Because of our current law 58 babies have been lost to this horribly violent procedure, as documented in the 1998 Kansas Annual Summary of Vital Statistics. These are only the known cases. Kansas has a reputation far and wide as the place to come for this heinous procedure and other late term abortions.

We strongly urge you to close this open door and vote favorably for the adoption of **H.B. 2581**.

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WEE LIFE, INCORPORATED

Graves 7

Mr. Chairman, distinguished members of the committee, my name is Karyl Graves, lobbyist for Wee Life, Incorporated. Wee Life, Incorporated is a non-profit organization, founded in 1998, dedicated to re-establishing constitutional protection and fetal rights for the pre-born.

Wee Life, Incorporated strongly supports House Bill number 2581. Wee Life views partial-birth abortion, which is a ghastly and torturous procedure as infanticide and a violation of the intent and spirit of the Declaration of Independence which states in paragraph two, "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness".

Wee Life, Incorporated further believes that partial-birth abortion violates the Fourteenth Amendment of the United States Constitution which reads in part, "...nor shall any State deprive any person of life, liberty, or property, without due process of law...".

With the medical technology we have today, it is possible to see inside the womb. Science increasingly lends support to the fact that the unborn are real persons long before birth. Today, doctors are performing diagnostic and therapeutic wonders, including surgery, on unborn babies. Sonograms show infants in the womb responding to stimuli, sleeping, sucking their thumbs, stretching, yawning. Furthermore, a person can be charged with manslaughter if an accident results in the death of an unborn child.

Please refer with me to the "Wee Life in the Womb" information sheets for a brief synopsis of what we do know about life in the womb and the baby models on display before you.

With the knowledge and information we have today concerning life in the womb, it is reasonable to conclude, then, that medical and scientific facts set forth a strong contention that personhood is established prior to birth, that an unborn infant is a "person" before being born.

The pre-born, especially in the last trimester, by their intrinsic nature, should be classified and have the status of that of a human person. What difference is there in a baby's status seconds before she emerges from the womb and seconds after she has emerged except that which the courts and society assign to her? Nothing in law or policy or public rhetoric should be tolerated that suggests that a third trimester unborn infant is no more complex than an appendix!

Wee Life, Incorporated believes that partial-birth abortion denies the child in the womb the right to life declared to every person in the Declaration of Independence and guaranteed by the United States Constitution. We must continue to stand up for what is right, for what is true, and for those who are unable to stand for themselves. Wee Life, Incorporated, therefore, urges you to pass House Bill number 2581 in that it restricts the ending of a life that we believe to be a person with certain constitutional guarantees.

Mr. Chairman, members of the committee and particularly the sponsors of House Bill number 2581, thank you for your time and attention and the opportunity to speak in favor of this bill.

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WEE LIFE IN THE WOMB

- Conception: One cell, the new life has inherited 46 chromosomes, 23 from each parent. This one cell contains the genetic blueprint for the child's sex, hair, eye color, height, and skin tone.
- Day 20: Brain, spinal cord and nervous system are already established.
- Day 21: The heart begins to beat.
- One month: The heart is pumping quantities of blood through the circulatory system.
- Week 5: Brain waves can be detected and recorded. Fingers can be discerned in the hand.
- Week 6: The liver is producing blood cells. The brain begins to control movement of muscles and organs.
- Week 7: The jaws form, including teeth buds in the gums.
- Week 8: Everything is now present that will be found in a fully developed adult. The stomach produces digestive juices and the kidneys begin to function. Muscles start to operate in conjunction with the nervous system. The wee life responds to touch.

This is the most common time for a mother to confirm that she is pregnant.

- Week 9: Fingerprints are evident. The wee life will curve its fingers around an object placed in the palm of its hand.
- Week 10: Wee life can now squint, swallow, wrinkle its forehead.
- Week 11: Urination occurs.
- Week 12: The wee life now sleeps, awakens and exercises its muscles by turning its head, curling its toes, and opening and closing its mouth. The palm will make a tight fist when stroked.

The majority of abortions are performed at this stage.

- Week 13: Fine hair begins to grow on the head. Sexual differentiation becomes apparent.
- Month 4: The wee life weighs a half a pound or more. The ears are functioning and there is evidence that it can hear outside the womb.
- Month 5: One half of the pregnancy has now passed. The mother has definitely begun to feel her baby's movements. The wee life may jump in the womb if startled by a loud sound.

Partial-birth abortions are normally performed at this stage or after.

- Month 6: Oil and sweat glands are functioning. If a wee life

were born in this month, it could survive outside the womb with the proper care.

Month 7: Wee life now uses the four senses of vision, hearing, taste, and touch. They can recognize their mother's voice.

Month 8: Antibodies build up.

Month 9: Weight is usually six to nine pounds. The heart is pumping 300 gallons of blood per day. The unborn child is fully capable of living outside the womb.

Every unborn child is a complete, living human, a unique individual, never to be repeated in all of history.

Why am I asking you today to ban partial birth abortions?

1) What we are aborting are defenseless human beings these are babies who can not defend themselves. It is nothing less then murder we charge parents with that who kill their babies after they have been born so its okay for us to kill babies as we are forcing them to be delivered. This is a form of child abuse no matter the reason. This innocent child has done nothing to anyone and has the should have the same rights as you and I. Would you allow someone to suck your brains out just because you were an inconvenience or you might have a defect. The fact of the matters is that most of us do have defects of some sort if we look long enough,

2) One of the most common excuses to kill a unborn child is they may have a defect. There is one hard fact medicine is not absolute neither is the testing they perform. So we are aborting children who have nothing wrong with them. Not only that if there is something that is wrong like spinabifida or downs there are varying degrees of these anomalies. I have given you a sheet which shows the myths on Down's syndrome and Doctors can be wrong. Just because a person has a defect doesn't mean they feel any less pain then any other infant, it doesn't mean they can't be loved or love back. It doesn't mean they will be a burden to their parents or society the rest of their lives. When parents abort the WANTED child there are many mental anguishes they suffer much more so then if they went through with the pregnancy. There is no closure for them and they do not feel as they can talk about it. They do not get the opportunity to tell the baby how much they love them or how much they wanted them or to simply say goodbye. Its proven that these things help the grieving process.

3) These BABIES do feel pain! Please close your eyes for a second and imagine this you are sleeping your being fed and taken care of maybe even dreaming when suddenly someone grabs your legs forces them out of your comfortable home then comes the rest of your body except for your head. OUCH what is going on why does my head hurt then suddenly nothing your heart keeps beating for a brief period but someone has just sucked your brains out. Is that what you call mercy? I know these babies feel pain when a premature infant has a painful procedure or gets sick or has a head bleed they show clinical signs of pain. What makes you think they don't when they are in utero? Where is the scientific evidence that premature babies or unborn babies do not feel pain?

4) Other reasons for late term abortions incest or rape. When did two wrongs make a right? So the mother has a traumatic event occur it is awful are we helping her by killing the unborn child or are we adding to her violation? I do not and would not force the mother to keep the infant it is up to her but there are many people out there who would adopt these babies. It is said there is a higher risk of children of rape are linked to violent crime and become rapist them selves I think if we look at our society these days children in general are more violent. If we continue to give them the idea that if they are different or someone is different or an inconvenience we will kill them to solve our problems . We will see more high violent crimes life has no value to us anymore

especially when we go and kill innocent babies so why would they hold any values to the children we are rearing.

Lets stop killing innocent human beings these are babies not blobs they can feel pain they do need love and understanding they most definitely are born with personalities. Just remember this they are BABIES they look like babies they act like babies and they do feel pain of scissors going into their heads. The parents do not recover as well from abortion as society would like to gloss over so there goes the mental health issue.

Testimony of Mary V. Petrow
January 20, 2000

To the Committee:

In 1990, my husband and I experienced a pregnancy that ended tragically. At a regular checkup, during a routine ultrasound, we were told that our baby boy had an opening in the back of his head that would not be compatible with life. After a second scan at St. Lukes Neonatal Facility, it was confirmed that the baby was at the very least anencephalic and could not live outside the womb. Since I was past 24 weeks, terminating the pregnancy could not be done by my physician at St. Joseph Health facility in Missouri.

After much consideration with my doctors, my family, my ministers and my conscience, I had a D&E performed at Shawnee Mission Medical Center, in Kansas. Genetic testing showed that the baby was a Trisomy 18 and also suffered severe heart abnormalities.

I thank God that my doctors had the option at that time to be honest with me about my medical condition and that of my baby's, and that I had the option to terminate a lost pregnancy. The only way the experience could have been worse would have been if I were told by my doctors that they could not advise me for fear of losing their careers and that I would have to carry to term a baby that could not possibly live; and that continuing the pregnancy could risk any future pregnancy, and probably end in an emergency C-section.

Families in Kansas should be able to make a choice based on advice by their medical professionals and not be directed what to do by politicians and/or political agendas. Families in Kansas deserve compassion from their elected officials. Kansas women deserve laws that protect their physical health, mental health, and future ability to carry a pregnancy to term.

In the years since losing my son, I have watched the political circus surrounding late-term abortions, noting that in almost all cases, these are tragic situations in which families who desperately want children find themselves in. These are not abortions done late in a pregnancy by a woman who has simply changed her mind.

I encourage you not to be duped by anti-choice rhetoric that use the term "partial birth abortions" in their attempt to end all abortions. By law, women in this country have the right to bodily integrity, decisional autonomy, and informational privacy. If you really want to end unintended pregnancies and therefore reduce the number of abortions in Kansas, enact legislation that would assist women in family planning and institute better sex education for teens.

The next woman facing a tragic pregnancy may be someone you know. I encourage you to provide protection for her, her family, and her doctors.

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Testimony Of Gloria Schlossenberg
10124 W. 96th St.
Overland Park, KS 66212
(913) 492-2210, January 20, 2000

I was in the beginning of the sixth month of pregnancy when my doctor told me things were very wrong and my baby would be terribly malformed, maybe born dead. He called my husband who came over. We asked could he end this pregnancy right then. He said no, I would have to go through with it and wait until nature terminated it and that abortion for me then was illegal.

Nature wasn't kind. This nightmare lasted until I was in my ninth month. The lack of Roe vs. Wade forced me to go through the worst kind of torture for the next few months. We couldn't afford for me to go to Scandinavia where abortions were legal.

Shock was replaced by reality. I had nightmares, the worst one that little slimy things were spewing forth from me. My mother moved in with us so my husband could work.

There I was in maternity clothes, feeling this doomed child in me. Sometimes it moved. I was a prisoner of my body. What could I say when someone would exclaim happily on my pregnancy. I felt unclean, unworthy because I wasn't capable of carrying a normal child. Because of the nightmares I was afraid to sleep. I alternated between bouts of furious cleaning until I was exhausted or else sat in a numbed state. If only I can make you feel the misery, the suffering that went on for weeks and weeks. I managed to hang on. Finally I went through a painful birth. The baby was so malformed that it was not recognizable as a child and it was born dead.

I remember my dear mother saying, "it's over, honey now you can get on with your life." It wasn't over. Right after I came home the nightmares began again. The accumulation of months of trying to hold onto my sanity finally caught up with me. I went into the deepest case of depression and it was months and months before I came out of it.

This happened in 1952. I am now 76 years old and still relive these dreadful memories when these cruel bills come up. Please, try to imagine the terrible emotional toll for a woman in this situation who is helpless and must wait for nature to free her.

Ladies, would you want to go through this, have your daughters live through this? Gentlemen, would you want your wife or daughters to go through this? No woman is capricious enough to want a late term abortion unless there are very compelling reasons. The choice must be her doctor and hers alone.

I am a deeply religious person, last night I prayed to our dear Lord that I could sway you to vote against this unnecessary, punitive bill. I also prayed very hard that you would know guilt and remorse if you voted against a woman's right of choice in this situation.

Please don't hurt these women they suffer enough.

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TESTIMONY BEFORE
THE KANSAS LEGISLATURE'S
HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS
Representative Tony Powell, Chairman

January 20, 2000

FROM

The Reverend George T. Gardner, Senior Minister
College Hill United Methodist Church
2930 East First Street
Wichita, Kansas, 67214
(316) 683-4643
and
Co-chair Kansas Religious Leaders for Choice
(Mailing Address same as above.)

Chairman Powell, members of the Committee, I am here to speak in opposition to House Bill, No. 2581. I represent Kansas Religious Leaders for Choice an inter- faith group of men and women, clergy and laity, who believe that women should have the right to reproductive choice including the right to an abortion guaranteed in *Roe v. Wade*.

In 1973 the Supreme Court of the United States established that a woman's constitutional right to privacy encompasses her right to make the decision between childbirth and abortion. Nineteen years later, in *Planned Parenthood v. Casey* (1992), the Supreme Court reaffirmed two of the basic tenets of *Roe*: 1) a woman's right to choose when and if to bear a child is constitutionally protected and; 2) a state can only ban abortions performed after fetal viability (and, even then, only so long as exceptions are made to protect the life and health of the woman.)

The difficulty with House Bill No. 2581 is that it uses the term partial-birth abortion without describing to what medical procedure it is referring. The phrase partial-birth

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abortion is a term coined by anti-choice abortion advocates who want to make all abortions illegal. There is no actual medical procedure named partial-birth abortion. There is a procedure known as intact dilation and extraction (intact D&X) but the Bill before us does not mention this or any other medical procedure.

Currently, the Supreme Court of the United States is considering a Bill from our sister state, Nebraska. The Nebraska Bill under consideration is being reviewed because of the vagueness of its language. A Federal District Judge in Nebraska ruled that their Bill was unconstitutional due the way it was written. I suggest that the definitions offered in House Bill, No.2581 suffers from the same problem. Would it not be wiser for the Kansas Legislature to await a decision from the Supreme Court of The United States, before the Legislature attempts to pass this Bill? Those of us who make up Kansas Religious Leaders for Choice believe that this would be a better avenue to consider.

As an Organization we are concerned that House Bill, No. 2581 limits the medical profession in the range of options open to doctors and to women with difficult pregnancies. Life often presents to people difficult situations. Certainly, this can be true with pregnancies. To limit a doctor's or a woman's options in handling difficult pregnancies is an infringement upon both the doctor and the woman.

I am a minister of the United Methodist Church. My denomination addresses such difficult situations in our Social Creed. Under a section entitled, "abortion" my church states:

“. . .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 under proper medical procedures.”

In accordance with this statement I believe House Bill, No. 2581 does not recognize the “tragic conflicts of life with life that may justify abortion.” In such circumstances where this might occur, doctors and women should have available to them the full range of medical options and procedures.

Kansas Religious Leaders for Choice believe that to date our State does give to women the right to make reproductive choices. We affirm that in holding this position we are as life-affirming as those who represent an anti-choice position. In the matter of pregnancy the current debate over the right to an abortion pits the mother against the fetus that she is carrying. State laws seem to be moving in the direction that all that is important is the right of the unborn to have life. But it is not mother verses the fetus. It is both. And the abortion opponents who would affirm House Bill, 2581 seem only to care for the unborn to the exclusion of the woman. Kansas Religious Leaders for Choice believe that both are valuable. However, when “life conflicts with life” then both doctors and women must be granted their full range of medical options and choices. Our Organization urges this House Committee not to pass House Bill, 2581.

Appendix I

The Faith Community of Kansas Religious Leaders for Choice

The following hold denominational pro-choice positions

- I. Jewish Faith Community
 - A. B'Nai B'Rith Women
 - B. Hadassah
 - C. Jewish Community Relations Bureau/American Jewish Committee
 - D. National Council of Jewish Women, Greater Kansas City Section

- II. Christian Faith Community
 - A. Catholics for Choice
 - B. Congregational Churches (Independent)
 - C. Disciples of Christ
 - D. Episcopal
 - E. Presbyterian Church
 - F. Lutheran, E.L.C.A.
 - G. United Church of Christ
 - H. United Methodist Church
 - I. Unitarian Universalist

Testimony before the House Federal and State Affairs Committee:
Barbara M. Duke, State Board Member, Kansas AAUW; President, Kansas
Choice Alliance

January 20, 2000

Chairman Powell and members of the House Federal and State Affairs
Committee:

On behalf of the 1500 members of Kansas AAUW and the twenty diverse
organizations that make up the Kansas Choice Alliance, I thank you for this
opportunity to speak in opposition to H.B. 2581 which removes the health
exception from the ban on the procedure termed "partial birth abortion."

The proposed legislation would force a woman to continue a pregnancy even
when her health is threatened by doing so.

The *Roe v. Wade* decision allows states to ban abortion after viability except when
the woman's life or health is in danger. This provision is explicitly
reaffirmed by the U.S. Supreme Court in *Planned Parenthood v. Casey* (1992)

"Health" is defined in Mosby's Medical Dictionary, Fourth Edition, 1994 as a
condition of "physical, mental, and social well-being and the absence of disease
or other abnormal condition."

Health is a human being's most precious attribute. We urge you to recognize that
when a pregnancy threatens a woman's physical or mental health, she has the
right to terminate that pregnancy.

This legislation presents a direct constitutional challenge to *Roe* by selectively
denying some women the safest medical procedure for legal abortion both before
and after viability. Even though supporters of this bill assert that it applies only to
"late term" abortions the bill as worded is not limited to post-viability abortions.
The definition is broad and would ban virtually every safe method of abortion
used after the first trimester of pregnancy

Banning any medical procedure is an unprecedented intrusion into medical
decision-making that ignores the physician's judgment as to what is in the best
interest of the patient.

Since Nebraska's similar ban will be heard by the U. S. Supreme Court in the next
few months, we think it would be wise to wait for the Court's decision before
amending Kansas current law.



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**Testimony of Barbara Holzmark, Kansas Public Affairs Chair
Greater Kansas City Section, National Council of Jewish Women
8504 Reinhardt, Lane Leawood, Kansas 66206
(913)381-8222, Fx: (913) 381-8224 E-mail: bjbagels@aol.com**

**Representative Powell and Members of the House Federal and State Affairs
Committee:**

**My name is Barbara Holzmark and I am the Kansas Public Affairs Chair for
the Greater Kansas City Section of the National Council of Jewish Women
(NCJW). We are nearly 1000 members strong in the metropolitan Kansas City
area, 200 sections across the United States, and 90,000 members nationwide.**

I am opposed to HB 2581 a ban on so-called "partial-birth abortion".

**The National Council of Jewish Women believes that each woman can be
trusted with decisions that pertain to her own reproductive health concerns. The
mission of NCJW, a volunteer organization inspired by Jewish values, is to work
through a program of research, education, advocacy and community service to
improve the quality of life for women, children and families and strives to ensure
individual rights and freedoms for all people. We do not discriminate, all people
deserve individual rights and freedoms!**

**Our section in Kansas City was founded in 1894. We provided baths for
the children of the new immigrants to Kansas City in the early 1900's. We fought
for women's suffrage, for women having the right to vote, for the Equal Rights
Amendment and we continue to fight today for a woman's right to choose
abortion. We believe that women should be able to make these very important
decisions with their families and their doctors. "This vaguely worded bill uses
non medical language and could have the effect of interfering with all abortion
procedures including those performed early in pregnancy."**

**Given the US Supreme Court's decision, to take up this issue, this is not
the time to legislate on this matter. I urge you to vote no on this bill.**

Thank you for allowing me to speak to you.

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Planned Parenthood®
of Kansas and Mid-Missouri

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Presented by
Carla Norcott-Mahany

Testimony submitted by
Erika Fox, Vice President for Public Policy
Planned Parenthood of Kansas and Mid-Missouri

to the
House Federal and State Affairs Committee
of the Kansas Legislature

January 20, 2000

in opposition to
House Bill 2581

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The Kansas Legislature has already made its statement on a particular abortion procedure known medically as dilation and extraction. Two years ago, you passed a law that included a ban on that specific procedure, after the point of fetal viability, except where two physicians determine it is necessary to protect the life or health of the pregnant woman.

At least thirty states have passed laws that they claim will ban a mythical procedure they call “partial birth” abortion. Nearly all of those laws have been rendered unenforceable by courts applying standard constitutional principles that flow from previous Supreme Court rulings concerning the limits on state restriction of abortion. Unlike Kansas, most of those other states ignored basic issues of constitutionality and, in fact, enacted provisions that were so sweeping that they criminalized all of the safest, most commonly used forms of abortion, at all stages of pregnancy, without regard for the health of women.

In the meantime, these other laws have made their way through the judicial pipelines until, inevitably, the federal appeals circuits disagreed on the validity of such laws. Most recently, the full Eighth Circuit unanimously struck down laws from Iowa, Arkansas and Nebraska in their entirety—while a sharply divided Seventh Circuit panel upheld similar laws from Wisconsin and Illinois. (It should be noted, however, that the 7th Circuit also took the unusual step of ordering the district courts to issue “precautionary injunctions” which, in effect, limited enforcement specifically to the D&X procedure as defined by the American Medical Association.)

The U.S. Supreme Court acted quickly in the face of this split among the circuits and agreed last week to hear the case from Nebraska in April. They plan to issue a decision by the end of their term in June. In so doing, they announced that they would not take up Nebraska’s invitation to overturn *Roe v. Wade*.

Under these circumstances, it seems highly irresponsible for the Kansas Legislature to consider passing a new law (like that proposed in House Bill 2581) that is almost identical to the Nebraska law now being scrutinized by the Supreme Court. If the Legislature chooses to tinker with its laws on this subject, it seems wiser to wait until after the Supreme Court makes its position clear this summer. If you do not wait, and pass something similar to HB 2581, the state invites an almost certain lawsuit and risks costing taxpayers substantial sums in the form of legal fees—both its own and those of the challenger. In a tight economic year, this course is even more unwise.

There are other considerations, however. Does Kansas really want to make a statement that it does not care about the health of its female citizens? That it is willing to make abortion illegal and dangerous once again?

Voters are finally catching on that these proposals are not what they are touted to be. Ballot initiatives in Colorado, Washington and, most recently, Maine all failed because voters understood that these so-called "partial birth" abortion bans are really a backdoor strategy to outlaw all abortions. Kansans are beginning to understand this too and the focus on the impending Supreme Court case will accelerate their learning curve.

Passage of HB 2581 would be fiscally, politically and medically irresponsible. We urge you to defeat this bill.



January 20, 2000

Members of the Federal and State Affairs Committee:

The approximately 7000 members of Concerned Women for America (CWA) in Kansas strongly support a partial birth abortion ban. Unlike abortion procedures that are performed in earlier months of gestation, this method is performed on pre-born babies beginning at the fifth month of development. As neo-natal research progresses, it is highly likely that many of these children could survive outside the womb, so clearly this gruesome procedure borders on infanticide.

A procedure billed as necessary for the "life and the health of the mother" is merely semantics. No doctor whose patient's life is in danger would opt for a three-day procedure. Also, according to PHACT, (Physicians' Ad Hoc Coalition for the Truth) a group specializing in fetal medicine, "Contrary to what abortion activists would have us believe, partial-birth abortion is never medically indicated to protect a woman's health or future fertility. In fact, the opposite is true: The procedure can pose a significant and immediate threat to both the pregnant woman's health and fertility." This threat to future fertility includes a condition called "incompetent cervix" that is the leading cause of premature delivery. Even the American Medical Association stated that a partial-birth abortion was "not medically indicated" and gave public support to a national bill (H.R. 1122) on May 17, 1997.

In addition, the fetus is able to feel pain and in fact, may feel pain more acutely because certain receptors are not yet fully developed.

A recent revelation by Life Dynamics Inc. gives a clue why the procedure was developed—there is a burgeoning market for fetal tissue and partial birth abortion provides an intact body that is useful for research. [See attached sheet] I have documentation of this if you would like to see it.

The membership of CWA of Kansas urges you to support a clean partial birth abortion bill that will stop this gruesome and unnecessary procedure in Kansas.

Sincerely,

Judy Smith, State Director, Concerned Women for America of Kansas

CONCERNED WOMEN FOR AMERICA
OF KANSAS

House Fed. &
State Affairs

Date 1/20/00

Attachment No. 15

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FOR IMMEDIATE RELEASE
OCTOBER 29, 1999

FOR INFORMATION:
WENDY WRIGHT 202-488-7000

PARTIAL-BIRTH ABORTIONS: A Way To Obtain Intact Body Parts To Sell

Washington, D.C.-As the Senate debates partial-birth abortions, revelations of an industry that profits from baby parts enters the fray. Abortion supporters' attempts to defend an indefensible procedure become clearer with reports of payment for intact baby parts.

The University of Washington advertises on the National Institutes of Health's Web site that they "can supply tissue from normal or abnormal embryos and fetuses of desired gestational ages between 40 days and term. Specimens are obtained within minutes of passage and tissues are aseptically identified, staged and immediately processed according to the requirements of individual investigators." Note that the ad admits late-term abortions are being done on perfectly healthy babies.

Opening Lines, A Division of Consultative and Diagnostic Pathology, Inc. advertises in a brochure:

Livers (30% discount if significantly fragmented)	\$ 150
Brain (30% discount if significantly fragmented)	\$ 999
Ears	\$ 75
Eyes (40% discount for single eye)	\$ 75
Intact Embryonic Cadaver	\$ 600

According to Life Dynamics Institute, *Anatomic Gift Foundation* places orders with Planned Parenthood for specific baby parts. Copies of orders show some require retrievals to be completed "within a few minutes." This suggests that the baby could have been born alive.

Partial-birth abortion is not about "a woman's right to choose" - it is about delivering intact babies for the convenience and profit of abortionists.

Copies of documentation are available upon request.

Concerned Women for America is the nation's largest public policy women's organization.

- End

1015 Fifteenth Street, N.W. ♦ Suite 1100 ♦ Washington, D.C. 20005 ♦ Phone: 202-488-7000 ♦ Fax: 202-488-0806

House Fed. &
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Date 1/20/00
Attachment No. 15
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LWWVK

LEAGUE OF WOMEN VOTERS OF KANSAS

Stearns
written only
16

919½ South Kansas Avenue Topeka, KS 66612 (785) 234-5152

The League of Women Voters of Kansas is an organization welcoming all citizens of voting age. The League of Women Voters of Kansas has local chapters in: Emporia, Great Bend, Johnson County, Lawrence-Douglas County, Manhattan-Riley County, Salina, Topeka- Shawnee County, Wichita Metro, Wyandotte County(Kansas City, Ks.) Unit, and Members at large.

The League of Women Voters of Kansas position on abortion is as follows: "Protect the ~~constitutional~~ right of privacy of the individual to make reproductive choices."

The League of Women Voters in Kansas has long supported that position and remains staunchly opposed to any legislation restricting that right. The League has long held that reproductive choices should remain to the individual making that choice.

Therefore, the League of Women Voters of Kansas opposes any legislation restricting the right of the individual to make choices regarding reproduction.

Darlene Greer Stearns

Darlene Greer Stearns
Lobbyist, League of Women Voters of
Kansas

1530 Grobe
Topeka, Ks. 66606
785-235-3757

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January 20, 2000

MAIN STREAM COALITION

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66207-2520

Phone: 913-649-3326

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A 501(c)4 Organization

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Executive Director

TO: CHAIRMAN TONY POWELL AND MEMBERS OF THE
HOUSE FEDERAL & STATE AFFAIRS COMMITTEE

FROM ANN HEBBERGER

RE: OPPOSITION TO H.B.2581: An Act Concerning
abortion

The MAINSTREAM Coalition believes all children should be born loved and nurtured, and that all women should be allowed, without government interference, to make reproductive choices.

WE SUPPORT: the U.S Supreme Court decision, Roe vs. Wade, which recognizes a woman's constitutional right to privacy in deciding whether to continue a pregnancy.

WE SUPPORT: confidentiality in doctor-patient decisions whether to continue pregnancy during the second trimester.

WE SUPPORT: protection of a woman's mental and physical health if late termination is necessary.

WE SUPPORT: all strategies that allow a woman free access to abortion at the state and federal level.

Such strategies include:

- # Freedom from mandated spousal and parental notification
- # Coverage for abortion in government and other health plans
- # The ability to cross state lines for an abortion without legal dispute

MAINSTREAM Coalition believes there are already too many restrictions on a woman's right to privacy. H.B.2581 adds still more. We therefore oppose it.

Thank you,

Ann Heberger
Public Policy Co-Chair

House Fed. &
State Affairs

Date 1/20/00

Attachment No. 17

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