Approved: March 15, 2000
Date

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Senator Lana Oleen at 11:10 a.m. on March 9, 2000 in Room 245-N of the Capitol.

All members were present.

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

Conferees appearing before the committee:
Carla Norcott-Mahany Planned Parenthood, Ks & Mid Missouri
Barbara Duke, American Organization of University Women
Rev. George Tormohlen, Prairie Village
Dena Vogler, Womens' Health Care Services
Darlene Stearns, The League of Women Voters
Janet Stamper, Kansas Now
Natalie Haag, Office of the Governor
David Gittrich, Kansas for Life
Kathy Miglenico, RN
Judy Smith, Concerned Women of America for Kansas
Beatrice E. Swoopes, Act. Dir. Ks. Catholic Conference

Others attending: See Attached Sheet

The Hearing continued on

Sub HB 2581- Partial birth abortion and abortion issues

Chairman Oleen noted to the committee that conferees in opposition to the bill would be given an opportunity to present testimony to equalize the time afforded in hearings on the bill the previous day. She recognized Carla Norcott-Mahany who appeared for Planned Parenthood, Kansas and Mid-Missouri. (Attachment 1) Ms. Norcott-Mahany read a statement from the Planned Parenthood regarding the sale of fetal tissue in response to testimony provided March 8 by Representative Phill Kline. Ms. Norcott-Mahany stated that Planned Parenthood opposed **Sub HB 2581** for several reasons, a) a recent opinion issued by Kansas Attorney General states it is unenforceable as written, b) it interferes with the exercise of best medical judgment by physicians and c) it does not remedy the problems created by the 1998 legislature.

Chairman Oleen recognized Barbara Duke, American Association of University Women (AAUW) as an opponent to **Sub HB 2581.** Ms. Duke stated that she spoke for organizations that make up the Kansas Choice Alliance, that oppose this bill. (Attachment 2) She stated that AAUW and Kansas Choice Alliance would prefer to see specific language written into the bill to provide exceptions for rape and incest, an exception for pregnant children and an exception for severe fetal abnormalities.

Chairman Oleen stated that time now would be given to others who wished to testify concerning abortion issues and recognized Natalie Haag, Office of the Governor. Natalie Haag reported that the Governor had introduced legislation last year to address concerns regarding the meaning and constitutionality of the 1998 abortion bill. (Attachment 3). She stated that the Governor has made clear any legislation which eliminates the mental health exception under the partial birth abortion provision K.S.A. 65-6721 must clarify the existence of a mental and physical health exception in the post-viability sections of K.S.A. 65-6703.

Chairman Oleen then returned to proponents of the bill, and called on David Gittrich, Kansas for Life. Mr. Gittrich is executive Director of Kansans for Life affiliated with the National Right to Life Committee. (Attachment 4) He ask that Kansas join with the other 27 states that have passed legislation to ban partial-birth abortions.

Chairman Oleen recognized Catherine Bennett-Miglionico, RN, as a proponent to **Sub HB 2581**. Ms. Bennett-Miglionico stated she is a registered nurse on the Neonatal Intensive Care at Children's Mercy Hospital. (Attachment 5). She provided members copies of an article: First Things Picture Perfect: the Politics of Prenatal Testing by Elizabeth Kristol .www.firstthings.com/ftissues/ft9304/kristol.html.

Chairman Oleen called on Judy Smith, State director, Concerned Women for America of Kansas, a supporter of **Sub HB 2581**. Judy Smith stated that Concerned Women for American of Kansas supports a clean partial birth abortion bill that will stop this procedure in Kansas. (Attachment 6).

With equal time consideration, the committee then returned to opponents of **Sub HB 2581** and Chairman Oleen recognized Rev. George Tormohlen. Rev. Tormohlen,Sr. Minister, Colonial United Church of Christian Prairie Village, stated that because of his involvement in an organization "Clergy Consultation on Problem Pregnancies" he believes any law dealing with abortion should have health exceptions for the pregnant woman. (Attachment 7).

Chairman Oleen called on Dena Vogler, Administrative Director, Women's Health Care Services, Wichita. Ms. Vogler stated that the care service she represents is the only hospital-like outpatient facility in the United States. (Attachment 8). Ms. Vogler provided the committee with a list representative of the circumstances under which women seek late abortions.

Chairman Oleen recognized Darlene Greer Stearns , League of Women Voters of Kansas, as an opponent to **Sub HB 2581.** Ms. Stearns stated that the position on abortion taken by the League of Women Voters of Kansas is: "Protect the constitutional right of privacy of the individual to make reproductive choices." (Attachment 9).

Chairman Oleen called on Janet K. Stamper, Legislative Coordinator Kansas National Organization for Women, an opponent to **Sub HB 2581**. Ms. Stamper stated that Kansas Now opposes this bill because it would put the lives of women at risk by banning an abortion procedure throughout pregnancy, even before viability. (Attachment 10). She stated that the language in this bill is almost identical to other states' abortion procedure bans that have been found unconstitutional by the U.S. Court of Appeals for the Eighth Circuit.

Chairman Oleen recognized Beatrice Swoopes, Acting Executive Director, Kansas Catholic Conference, a proponent to this bill. Ms. Swoopes stated that the Kansas Catholic Conference has been on record of supporting a ban on partial-birth abortion since its initial introduction in the Kansas Legislature. (Attachment 11).

Written testimony was received from Representative Tim Carmody to clarify his position on partial birth abortion. (Attachment 12).

Written testimony from Jared P. Pingleton, Psy, D. a licensed clinical psychologist, a proponent to the bill was distributed to committee members.(Attachment 13)

Written testimony was received from Gloria Schlossenberg, an opponent to the bill. (Attachment 14)

The hearing was closed on the bill. The chair indicated continued discussion of **Sub HB 2581** would continue at the next meeting.

Meeting adjourned at 12:08 p.m. The next meeting will be held March 10, 2000 at 11:00 a.m.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST
DATE: MARCH 9, 2000

NAME	REPRESENTING
Barbara Wilderson	Kansans for Life
Catherine Bernat-Meglasonico	KFC
George Brownlow	S&K
Carla Norcott-Mahaney	Planned Parenthood
Barbara Ducke	AAUW & KS Choice Alliance
Brenda Mayberry	KS NOW & Manhattan NOW
Dena Vogler	Women's Health Care Svcs.
Kenny Tyler	West Elk High
Jeremy Washburne	West Elk High School
Michael Adams	West Elk Jr/Sr High School
Janis McMullen	League of Woman Voters of Kansas
Norella Muñoz	KU
Laura Mallard	Right To Life of Kansas Inc
Judy Smith	CWA of Kansas
Cleta Reneger	Right to Life of Ks
K. McNally	Member of Comm.
Linda Adams	Farm Bureau Elk Co. Elk Valley H. School
Nancy Thomas	Chautauqua + Elk County Ag Ed Co-op
David McCandless	KFB Capital Experience

Tony Corbett — Elk Valley High School

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST
DATE: March 9, 2000

NAME	REPRESENTING
Ben Glass	KFB Capitol Experience
Kenna Hutto	KFB Capitol Experience
Jessica Corcoran	Sen Vratil
Gretchen Hasty	Self
Karyl Graves	Wee Life, Inc.
Natalie Haag	Office of Governor
Laurie William	Office of Governor
Phyllis Weltess	KFL
Janet Stamper	Kansas NOW
Darlene Gee Pearns	League of Women Voters of Ks
Edward Rowe	" " " " " "
Sheena Wells	Kansas Farm Bureau Experience
Carroll Mayman	KFB Capital Experience
Bruce Dimmitt	Kansans for Life
Patricia Scoggin	Ks Catholic Conference
Anne Alexander	Sen. Nick Jordan
Sylvie J. Rueff	SELF

Planned Parenthood®
of Kansas and Mid-Missouri

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

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

March 8, 2000

concerning
HB 2581, SB 142 and SB 357

4401 W. 109th St., Suite 200 • Overland Park, KS

Sen. Federal & State Affairs Com
Date: 3-9-00
Attachment: # 1-1

The effect of the 1998 amendments to post-viability abortion law in Kansas was truly ironic. The combination of creating a new section purporting to impose a specific abortion procedure ban (of a procedure that, as far as we know, had never been performed in Kansas), and the simultaneous repeal of the general post-viability exception for cases of severe fetal anomalies without providing a clear exception to include both physical and mental health, resulted in actually creating a demand for the much-maligned procedure. This unintended result was produced by failing to provide a constitutionally required exception that unequivocally covers more than just physical health problems of the woman in K.S.A. 1998 Supp. Section 65-6703, and by ignoring the fact that women in tragic circumstances cannot be brushed away with the stroke of the pen.

The proponents of House substitute for HB 2581 have chosen to deal with these issues by ignoring all existing constitutional issues in Section 65-6703 and by creating new ones in the procedure ban section, 65-6721, where none previously existed. HB 2581 will most likely not pass constitutional muster because it expands the procedure ban to include all stages of pregnancy and eliminates an exception to the ban that currently protects the health of the pregnant woman. These types of infirmities have caused courts to enjoin enforcement of similar laws in dozens of states. And a recent opinion issued by the Kansas Attorney General states a belief that these proposed changes, coupled with existing problems in the definition of the banned procedure, will make HB 2581 unenforceable as written—even under the approach taken by the Seventh Circuit which limited the effect of the Wisconsin and Illinois statutes only to a single procedure as defined by the AMA.

Planned Parenthood also opposes HB 2581 because it interferes with the exercise of best medical judgment by physicians who are charged with protecting the health of women in difficult individual circumstances that can never be anticipated by a legislative body. This position finds support in the policy statements of both the American Medical Association and the American College of Obstetricians and Gynecologists—and in a recent clarification from the AMA to a Kansas House member which states, "banning any medical or surgical procedure through legislation could not be supported by the AMA since it is physicians, not legislators, who should make the medical judgment about what procedure should be performed within accepted medical standards."

In the context of the amendments passed in 1998, it is also important to consider what HB 2581 doesn't do. It does not remedy the serious problems HB 2531 created for physicians, patients and their families who are dealing with difficult and tragic circumstances in the later stages of pregnancy. HB 2531 eliminated the post-viability ban exception for cases involving women carrying severely deformed fetuses. HB 2581 does not restore that compassionate choice. HB 2581 does not clarify whether or not the post-viability exception in section 65-6703 (for a pregnancy that "will cause a substantial irreversible impairment of a major bodily function of the pregnant woman") includes both physical and mental health problems. This is a major constitutional and medical issue that has not been resolved and which has real consequences for real women with real problems.

In *Casey*, the Supreme Court reaffirmed the basic principle from *Roe* that "subsequent to viability, the State in promoting its interest in the potentiality of human life may, if it choose regulate, and even proscribe, abortion *except where it is necessary, in appropriate medical judgment, for the preservation of the life and health of the mother.*" And more recent cases have quoted *Roe's* companion case, *Doe v. Bolton*, in describing the scope of the required health exception: "Medical judgment may be exercised in the light of all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient. All these factors may relate to health. This allows the attending physician the room he needs to make his best medical judgment."

Finally, HB 2581 does not clarify the vaguely written portions of HB 2531 that were carefully outlined in *Tiller v. Mitchell* relating to the definition and determination of viability, and physician reporting requirements. By providing serious criminal penalties and loss of medical license for violating these sections, while failing to provide clear standards for those who apply and enforce them, the law creates a trap for physicians trying to make a good faith effort to follow the law. To escape this trap, physicians may be encouraged to make medical decisions that are not in their patient's best interest—resulting in limited choices, compromised medical care, and potential new legal challenges to the law.

We would remind the Committee that there are still before it "holdover" bills that would solve some of these problems. Planned Parenthood wholeheartedly supports SB 142. This bill repeals most of the vague and confusing portions of the law passed in 1998. It repeals the tortured, confusing and conflicting new definition of viability that requires abortion providers to

pretend to be neonatologists in determining the possibility of survival of a fetus in the best equipped hospital in the world. It also repeals the onerous testing and reporting requirements which have a chilling effect on a physician's willingness to provide abortion—even prior to the point of fetal viability—and the preposterously vague and ambiguous requirement (in Section 65-6712) that state-mandated information be provided to women **whether or not** they have abortions. SB 142 eliminates the procedure ban in Section 65-6721 and provides that the ban on all post-viability abortions have an exception broad enough to protect a woman's physical **and** mental health.

SB 357 does not go far enough in its attempts to remedy the problems created by the 1998 law. And it goes father than is constitutionally permissible in withdrawing a health exception from the procedure ban in section 65-6721. SB 357 adopts yet a third definition of viability which avoids some of the vagueness problems of current law. This bill also alleviates some of the unacceptable legal dangers to physicians found in the testing and reporting requirements by including scienter requirements.

Like SB 142, SB 357 includes a health exception to Section 65-6703 that unambiguously protects women who have serious mental health problems late in pregnancy. But both bills would be improved if they included a third explicit exception to the ban on post-viability abortions. It should not be necessary for a woman to prove that her mental health is compromised in order to be allowed to choose to abort a fetus that is affected by a severe or life-threatening deformity. Planned Parenthood strongly advocates that such a compassionate exception be restored to Kansas law.

Two years ago, a charged political environment drove Kansas lawmakers to adopt HB 2531 without careful consideration. We urge you not to pass another ill-considered law in the heat of the political season. If you cannot agree on a clearly constitutional and compassionate revision to Kansas abortion law, the Legislature would do well to wait until next year when we will know the outcome of the current Supreme Court review of similar issues from Nebraska.

Testimony before the Senate Federal and State Affairs Committee

AMERICAN ASSOCIATION OF UNIVERSITY WOMEN

Kansas

March 8, 2000

Barbara M. Duke, State Board Member, Kansas AAUW; President, Kansas Choice Alliance. Phone: 785-749-0786

Chairman Oleen and members of the Senate Federal and State Affairs Committee:

My name is Barbara Duke and I speak for the members of the American Association of University Women in Kansas and the other organizations that make up the Kansas Choice Alliance. Thank you for this opportunity to speak in opposition to the Substitute for House Bill 2581.

In 1973 the Supreme Court ruled that women have a constitutionally protected right to terminate a pregnancy in the early stages, that is, before viability, free from government interference. Restrictions on post-viability abortion must include exceptions for cases in which the woman's life or health is at risk.

The legislation passed in 1998, that you are considering today, places unacceptable restrictions on a woman's right to terminate a pregnancy. It curtails a physician's ability to use the method most appropriate in light of each woman's individual circumstances. It moves the gestation period for viability to 22 weeks, before the third trimester and defines a fetus as viable even if it can only be kept alive with mechanical support. It does not allow a woman to obtain an abortion after 22 weeks because of severe fetal abnormality or if the pregnancy is the result of rape or incest. It makes no exception based on the age of the woman.

This legislation values fetal life, no matter how limited, over woman's life. A fetus fathered by a rapist or incest perpetrator is valued over the life and future of the woman. It does not recognize the danger inherent in pregnancies in very young women

Current law and the proposals for amending it ignore the myriad compelling reasons women have abortions. Each situation is unique. What I would like to talk with you about are some of the situations that are particularly heartbreaking:

*** An 11-year old girl who is in her 5th month before it is discovered she has been made pregnant by one of the neighbors

***A 16-year old victim of incest whose pregnancy is the final injustice after years of sexual abuse. It is hardly surprising that she denied the reality of her pregnancy until her 7th month when it could no longer be concealed.

(Over)

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*** A mother who learns late in pregnancy that she is carrying a fetus that, if born, would never grow beyond the mental age of a toddler. Is there a wonderful choice for this woman and her family that legislators would feel comfortable mandating? Institutionalization of this child and likely bankruptcy, with overwhelming consequences for the woman and the children she already has? Or perhaps abandoning this new child to the state? What reasonable person would tell her and her husband that these are the only options? That the fetus she is carrying is more worthy than her other children and her own future with them.

Scenarios like these do happen. What if someone you cared about found herself or her daughter in one of these situations?

AAUW and the Kansas Choice Alliance would prefer to see specific language written into the bill to provide exceptions for rape and incest, an exception for pregnant children, and an exception for severe fetal abnormalities. A comprehensive and compassionate health exception would be the next best thing.

We believe the state should stop telling women they have to give birth no matter what the circumstances. Stop practicing medicine by telling physicians what procedures they can use and which they can't.

It would be much better for women to pass nothing at all this year and wait for the U.S. Supreme Court's decision this summer on Nebraska's abortion procedure ban.

But, if you have to pass some legislation this year, think about the real women and their families whose lives you are affecting. Oppose HB 2581 as passed by the House or any other schemes devised by anti-choice legislators to remove comprehensive health exceptions.

Barbara Duke

Testimony before the Senate Federal and State Affairs Committee
Natalie G. Haag, Chief Legal Counsel
Office of the Governor
March 9, 2000

Madam Chair and members of the committee:

Thank you for the opportunity to address the committee regarding Governor Graves' position on abortion legislation. As you may recall, during the 1999 legislative session Governor Graves proposed the adoption of Senate Bill 357. The Governor's intent in requesting the introduction of SB 357 was to address concerns regarding the meaning and constitutionality of the 1998 abortion bill, which is now the law in Kansas. I do not intend to reiterate this testimony. At this time, I simply want to remind you of the issues of concern to Governor Graves.

Governor Graves has consistently supported a ban on partial birth abortion. Governor Graves will support legislation banning the partial birth abortion procedure after viability except where necessary to protect the life of the pregnant woman. However, the Governor has also made clear any legislation which eliminates the mental health exception under the partial birth abortion provision of K.S.A. 65-6721 must clarify the existence of a mental and physical health exception in the post-viability sections of K.S.A. 65-6703.

It was somewhat unsettling to me to hear testimony yesterday which placed yet a third intent on the definition of "major bodily function". If you recall, Representative Phill Kline testified that when Representative Tim Carmody said a mental health exclusion existed in the term "major bodily injury", Rep. Carmody meant that the mental injury had to be so significant as to lead to a physical injury. This interpretation is different than the statements made by anyone during the 1998 debate on this topic. For those of you who don't recall, I pulled the letters Governor Graves received to verify the statements made by the bill drafters. These statements were made to Governor Graves before he signed the 1998 abortion bill:

Representative Tim Carmody: "HB 2531 does contain an exception for the woman's physical and mental health as long as it is irreversible and results in impairment of a major bodily function. Mental capacity and ability are certainly major bodily functions."

Senator Tim Emert: "The most often asked question is: does this allow an exception for the woman's mental health as well as physical health? The answer is certainly, 'yes'."

Based upon these assurances and the certainty that the legislature would not intentionally pass an unconstitutional law, Governor Graves signed the 1998 bill into law. Immediately following this action, several legislators began to draw into question the Governor's conclusion regarding the presence of a mental health exception. For example, the Governor received letters stating the following:

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Representative Tony Powell: "Let me state unequivocally that a mental health exception is not provided for either by the clear and expressed language of the legislation or by legislative intent."

Representative Phill Kline: "Again, the confusion surrounding new legislation is understandable; however, the late term abortion ban on viable unborn children does not contain an exception for the mother's mental health. This portion of the bill only contains exceptions for the woman's physical health and life."

Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U.S. 833 (1992), has been cited by several conferees as supporting the proposition that mental heath is not a constitutionally required protection for post-viability abortion. Three points have been overlooked in the analysis of this case. First, it should be noted that the "major bodily function" exception analyzed by the *Casey* court was part of the medical emergency provision and not a general post-viability restriction. Second, the court clearly stated its intent to adhere to the *Roe v. Wade* principles and confirmed the **"State's power to restrict abortions after fetal viability, if the law contains exceptions for pregnancies which endanger the woman's life or health"**. *Casey*, 505 U.S. at 846. With respect to the specific language of the statute, the Supreme Court agreed with the Court of Appeals that "[W]e read the medical emergency exception as intended by the Pennsylvania legislature to assure that compliance with its abortion regulations would not in any way pose a significant threat to the life or health of a woman." *Casey*, 505 U. S. at 880. Lastly, at the time *Casey* was decided the term "health" had been interpreted to include mental health.

Specifically, the United States Supreme Court in *Roe v. Wade*, 410 U.S. 113, 163-164 (1973), stated:

> If the State is interested in protecting fetal life after viability, it may go so far as to proscribe abortion during that period, **except when it is necessary to preserve the life or health of the mother.** (Emphasis added).

In *United States v. Vuitch*, 402 U.S. 62, 71-72 (1971), the United States Supreme Court reviewed a District of Columbia statute making abortions criminal "unless the same were done as necessary for the preservation of the mother's life or health and under the direction of a competent licensed practitioner of medicine". Both the District Court and the United States Court of Appeals construed the statute to permit abortions **"for mental health reasons whether or not the patient had a previous history of mental defects."** *Id.* at 71-72. (Emphasis added.) The United Supreme Court stated:

> We see no reason why this interpretation of the statute should not be followed. Certainly this construction accords with the general usage and modern understanding of the word "health," which includes psychological as well as physical well-being. Indeed Webster's Dictionary, in accord with that common usage, properly defines health as the "[s]tate of being . . . sound in body [or] mind." Viewed in this light, the term "health" presents no problem of vagueness. Indeed, whether a particular operation is necessary for a patient's physical or mental health is a judgment that physicians are obviously called upon to make routinely whenever surgery is considered.

Id. at 72.

Following the decision of *Vuitch*, the United States Supreme Court in *Doe v. Bolton*, 410 U.S.179, 192 (1973), stated:

> We agree with the District Court, 319 F.Supp., at 1058, that the **medical judgment may be exercised in the light of all factors-physical, emotional, psychological, familial, and the woman's age-relevant to the well-being of the patient**. All these factors may relate to health. This allows the attending physician the room he needs to make his best medical judgment. (emphasis added).

In *Women's Medical Professional Corp. v. Voinovich*, 130 F.3d 187 (6th Cir. 1997), cert. denied, 118 S.Ct. 1347, 140 L.Ed.2d 496, 523 U.S. 1036 (1998), the Sixth Circuit Court of Appeals struck down as unconstitutional Ohio's post-viability ban on abortion, which provided that an abortion could be performed in order to avert the death of the pregnant woman, or to avoid a "serious risk of the substantial and irreversible impairment of a major bodily function." 130 F.3d at 206. The Act defined "serious risk of the substantial and irreversible impairment of a major bodily function" as follows:

> [A]ny medically diagnosed condition that so complicates the pregnancy of the woman as to directly or indirectly cause the substantial and irreversible impairment of a major bodily function, including, but not limited to, the following conditions:
>
> (1) Pre-eclampsia:
> (2) Inevitable abortion;
> (3) Prematurely ruptured membrane;
> (4) Diabetes;
> (5) Multiple sclerosis.

Ohio Rev. Code Ann. §2919.16(J); 130 F.3d at 206.

The Sixth Circuit Court of Appeals noted its belief the United States Supreme Court would hold that a woman has the right to obtain a post-viability abortion if carrying a fetus to term would cause **severe non-temporary mental and emotional harm**. 130 F.3d at 209.

Further, the Sixth Circuit relied upon the United States Supreme Court decisions of *Colautti v. Franklin*, 439 U.S. 379, 99 S.Ct. 675, 58 L.Ed.2d 596 (1979) and *Doe v. Bolton*, 410 U.S. 179 (1973), which found it **"critical" that, in deciding whether an abortion was necessary, the physician's judgment "may be exercised in light of all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient"**. *Voinovich,* 130 F.3d at 209. (Emphasis added.)

> **[T]he constitution requires that if the State chooses to proscribe post-viability abortions, it must provide a health exception that includes situations where a woman is faced with the risk of severe psychological or emotional injury which may be irreversible.**

130 F.3d at 210 (emphasis added). The Sixth Circuit found the Ohio Act impermissibly limited the physician's discretion to determine whether an abortion is necessary to preserve the woman's

health, because it limits the physician's consideration to physical health conditions. 130 F.3d at 209. Consequently, the restrictive medical necessity exception was declared unconstitutional. 130 F.3d at 210. On March 23, 1998, the United States Supreme Court denied the petition for a writ of certiorari, thereby declining to review or overturn the Ohio case.

As you can see from even a few of the cases on this issue, the United States Supreme Court clearly requires that post-viability abortion restrictions provide an exception for both the mental and physical health of the mother.

As you can see, although confusion exists regarding the legislative intent when drafting the current post-viability sections of the abortion law, the constitutional requirement to provide a woman the right to protect her health, both mental and physical is clear. Governor Graves has stated this issue must be addressed before he will sign any new legislation modifying the Kansas abortion laws. Your decision to address this issue will bring Kansas in line with the majority of other states. My quick review of other state laws shows that 33 states provide for a life and health exception to their post-viability restrictions on abortion. A number of these states specifically state by statutory language or interpretation that health includes both physical health and mental health. Ten other states have either no separate post-viability bans or have not revised such laws since they were declared unconstitutional in *Roe v. Wade*. At least half of the remaining states that have something other than a clearly stated life and health exception have been enjoined from enforcement or declared unconstitutional.

Governor Graves will sign a bill that bans partial birth abortion only if the bill addresses the confusion over the post-viability definition of "major bodily function" by providing a clear exception for the pregnant woman's health. To do otherwise would be to ignore the United States Constitution and the rights afforded women therein.

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Web site: www.kfl.org

March 9, 2000

Madam Chairman, members of the committee. Thank you for allowing me to speak with you today.

My name is David Gittrich. I am Executive Director of Kansans For Life. Kansans For Life is a statewide pro-life organization affiliated with the National Right to Life Committee.

There are well over 100,000 households of people in Kansas that we have identified as pro-life. On average, there are 3,000 households of pro-life people per Kansas Senate District who are identified as pro-life.

I can say without any reservation that these tens of thousands of Kansans are universally, without exception, opposed to the partial-birth abortion procedure. Not one of them believes that this procedure should be legal in Kansas.

Not only is this procedure appalling. It is appalling that it takes place in Kansas.

In September of 1993, Brenda Pratt Shafer, a registered nurse with thirteen years of experience, was assigned by her nursing agency to an abortion clinic. Since Nurse Shafer considered herself to be "very pro-choice," she didn't think this assignment would be a problem. She was wrong.

This is Nurse Shafer's testimony:

> *"I was present for three of these partial-birth procedures. It was the first one that I will describe to you in detail. As Dr. Haskell watched the baby on the ultrasound screen, the baby's heartbeat was clearly visible. Dr. Haskell went in with forceps and grabbed the baby's legs and pulled them down into the birth canal. Then he delivered the baby's body and the arms -- **everything but the head** (2 1/2 inches from birth!). The baby's little fingers were clasping and unclasping, and his feet were kicking. Then the doctor stuck the scissors through the back of his head, and the baby's arms jerked out is a flinch, a startle reaction, like a baby does when he thinks that he might fall. The doctor opened up the scissors, stuck a high-powered suction tube into the opening and sucked the baby's brains out. Now the baby was completely limp. Dr. Haskell delivered the baby's head. He threw that baby in a pan . . . That baby boy had the most angelic face I have ever seen."*

Partial-birth abortions should be illegal.

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Some have advised to wait until the U.S. Supreme Court rules on pending cases concerning partial-birth abortions.

We recommend that the members of this committee and the entire Kansas Senate join with the other 27 states that have passed legislation to ban partial-birth abortions and thereby sending a message to the Supreme Court asking them to ban this horrendous procedure. If you do not act to pass HB2581, approximately 116 more babies will die because of partial-birth abortions.

There is no medical justification for this procedure. The A.M.A. has made this declaration.

After thorough examination of this procedure, over 2/3 of the U.S. House of Representatives have voted to ban this procedure and a strong majority of the U.S. Senate. And, as I've said previously 27 other states have acted to stop this grisly procedure.

We urge you to support HB2581.

Thank you

David Gittrich
Executive Director, Kansans For Life

March 9,2000

Catherine Bennett-Miglionico RN
1106 NE Chester AVE
Topeka KS 66616

Senators,

Thank you for your time today as I speak to you on The Ban of Partial Birth Abortion.

A little information about myself, I am a Kansas resident and I work at Children's Mercy Hospital in Kansas City, MO. I have 8 years of nursing experience 7 in which have dealt with the pediatric population and maternal child. My specialty is in Neonatal Intensive Care level IV in which I have spent 3 years of my nursing career, in some of the largest NICU's in the country and proud to say I am presently working in one of the top 10. I see miracles everyday. Babies who just will not do what the text book states they should do, that is have the genetic disorder that was predicted, be born with a severe case of the genetic disorder or ones who just are determined to survive and beat the odds. If we look at each other close enough there is something that we carry or have traits are that are not perfect or could be linked to a fatal disease. Since they have linked Breast Cancer to a family trait should we start killing those babies off because they may die from cancer? Or should we continue to find a cure. I wish you would take the time to meet these miracles,talk to them and their families then ask them is it all worth it. Even though their children may no live very long they have added much sadness, frustration, and **yes JOY**, to their families lives. Yes when they move on to sit on Jesus lap they will be missed but go to Childrens hospital see the Memorial quilt hanging on the wall, I don't see anger or a destroyed family I see alot love sadness and joy. There are no guarentees that we will have our children to adulthood that's why we need to cherish them and not kill them. I have had a baby who lived for a short period of time, less then 24h out of the womb, I too miss and love my little boy. I remember my pregnancy with him as a wonderful experience and loved him from the first day I knew I was pregnant. I am glad I had him and gave life to him for as long as the Lord allowed. See I can grieve over Anthony as we are meant too. I do not suffer the guilt or trauma over having to kill him because he was less then perfect. Instead of allowing mothers the choice to have someone kill their babies becuase they are confused going through unbelievable mental stress because of a birth defect or rape or poor timing. Lets spend that time, money and suffering helping her to recover the grief over her loss so she

can live again and never have any doubt that she did the right thing, or wonder about the What IF's.

When late term abortion occurs parents do not have the support that is needed, from many statements I have read. Although Genetic counseling is offered its not thorough enough. We in the medical profession do not offer for the parents to meet persons with the disabilities or their families so they can have a clear picture of what they are dealing with. As in anything there are varing degrees of most defects. The ones that seem the least appealing to the eye sometimes can be the most fixable with where Plastics and orthopedic medicine. Research shows according to families the genetic counselors tell them everything that could possibly be wrong and a picture which typically will show the "Text book "discription of the defect. They do not tell the families what to do they show them the facts and all of them at that. If we want to do something lets support those families with real information from families and children who have gone through and have had their children or the children who have survived. I am by no means blaming those in genetic counseling I do feel however we could do a better job.

The thing that I found astounding when families are trying to decide to abort at late term or not is they were at a loss as to what to tell the family and friends. Most of the people do not want to admit they had an abortion. Why is it? Do they know they have willfully killed their baby? Do they know that deep in their hearts that no test is absolute? Why would they not want to admit they had a late term abortion? **Because its wrong because its murder!!!!!!! No matter the reason.**

Do you know that most families that have late term abortions end up divorced or severly damaged for long term mental health problems because they can not get over the grief and **GUILT.** I am going to quote to you a survey done on late on a survey on late term abortion and its affect on the family unit. The article is attached from First Things Picture Perfect: The Politics of Prenatal Testing, author is Elizabeth Kristol. I will begin on the last paragraph on page 8 and finish the second paragraph on page 9.

So How is late term abortion benefiting families? Lets see we no longer have the issue of caring for someone who has a defect, but we are dealing with families being split up and mental health issues that are not going away. So we have managed to save a few dollars in health care yet we really have destroyed a family or two, let alone the individual persons involved. Yes it is hard to have a child let alone one that might have special needs. What child doesn't cause their parent grief and sorrow with growing up? There are no guarentees that something might not happen to cause a child to be defective. What are telling our children with this if your

not perfect in everyway we will get rid of you too? Do we not send parents to prison for killing their newborns or children ? Its not easy but many can recover through the natural process better then with guilt of knowing deep down that you murdered your baby. Abortion not only causes grief but it causes unresolvable guilt.

How do we know that these medical tests are Accurate? The answer is we do not know this , medicine is not an exact science . Most of these tests give families false security anything can happen any time during the pregnancy which may not be detected. I have attached another article I will read just a couple of of the stories for you. Alberta Report May 17,1999 By Carmen Wittmeir Title The doctors are often wrong.

Rape and incest are horrid things for a woman to encounter. However does it give the woman the right to kill the innocent child? Does it really help her to heal? Did your mother ever tell you 2 wrongs make a right? Well the answer to the above questions is no. I have seen many rape victims who have been pregnant and go through with their pregnancies and never regret what they did. Most of those children were put up for adoption, a statement a mother made I will never forget in one such case " I can move on from my rape now, at least one good thing came from it, I know my son will be loved by a family who really wanted a child who couldn't have one." She is not the only one out there either who feels this way The mothers whom have attempted suicide the baby survived yet the baby was born with a defect or premature, the mother often blames herself because she didn't want the baby. So what would it have done to her if she aborted? At first she may have seemed okay but long term would it have helped or added to her grief? The answer to that is I think is obvious most likely it will destroy her. She would carry a greater guilt with out resolve, at least when they go up for adoption they know they have done something right and good. Now some want to say that being a rapists in inherited trait, isn't also enviromental? So next if your family suffers from mental health issues we should abort babies just in case? Lets work on punishing the father for his crime not the child. Because I will quote something that I once heard. " **Abortion is where the child pays for the Fathers crime."**

In conclusion I just want to say we are not helping the woman out by allowing partial birth abortion to continue. We are destroying women and their families by allowing this to continue. We do not allow them closure or the answers to the what if. We are allowing woman under emotional duress to make choices that they can not take back but are forcing them to live with the guilt of their choice. We as human beings tend to take the easy way out when the world seems to be closing in on us and things are not going as we planned. However my 37 years on this earth the one thing I have learned is what appears to be easy rarely is . It usually causes more

problems then we had to start. We woman are naturally nurtures our children we do not **kill** them we **protect** them with all we have. So lets honor women by taking out partial birth abortion. Lets love them and their families in this way. Let them have a **real choice** in which they can live with and continue being the mothers **God** intended us to be. Not the murders of our children.

Thank you for this time and opportunity and May God Bless and touch the heart of each one of you to make the right choice. **Ban Partial Birth Abortion** quit shedding the Blood of innocent Children. So we can be the great state that we claim to be for our families sake.

Sincerely
Catherine Bennett-Miglionico

Beverly LaHaye
Chairman

Judy Smith
State Director

March 8, 2000

Members of Federal and State Affairs Committee:

Concerned Women for America of Kansas strongly supports a ban on partial birth abortion (Intact dilation and extraction). 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 health of the mother" pushes the limit on logic. The facts are that no doctor whose patient's life is in danger would opt for a three-day procedure. 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 women's health and fertility." The threat to future fertility is evidenced by a condition called "incompetent cervix" that is the leading cause of premature delivery. This does not take into account the fact that a child is being manipulated in the womb to a breech position---a highly dangerous presentation for labor. The American Medical Association stated that partial-birth abortion was "not medically indicated" and gave public support to H.R. 1122 (U.S. House of Representatives) on May 17, 1997. Dr. Warren Hern, author of the nation's most widely used textbook on late-term abortions, has stated, "You really can't defend it..(Partial –birth abortion) I would dispute any statement that this is the safest procedure to use." [*Outlawing Abortion Method:* An Interview with Dr. Warren Hern" *American Medical News,* 20 November 1995]

Using the "health" exception in a ban on intact dilation and extraction is tantamount to allowing these abortions to continue with no restrictions. In 1998 KDHE statistics, 58 partial birth abortions were reported and all of these claimed the "prevention of substantial and irreversible impairment of a bodily function" exception. Of these, 58 were for mental reasons. Here again logic breaks down. How can it be better for a woman's mental health to know that her child was destroyed in such an inhumane way?

A recent revelation by Life Dynamics Inc. and the subject of a recent 20/20 investigation gives a clue why this procedure was developed. There is a burgeoning market for fetal tissue and the partial birth abortion procedure provides an intact body that is more useful for research. {See attached sheet}. Further documentation is available.

The members of CWA of Kansas urge you to support a clean partial birth abortion that will finally stop this gruesome and unnecessary procedure in Kansas.

Sincerely,

Judy Smith

Judy Smith, State Director
Concerned Women for America of Kansas

CONCERNED WOMEN FOR AMERI
OF KANSAS

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Sen. Federal & State Affairs Comm
Date: 3-9-00
Attachment: # 6-1

AVAILABILITY OF HUMAN FETAL TISSUE

NIH GUIDE, Volume 23, Number 10, March 11, 1994

P.T.

Keywords:

National Institutes of Health

Human embryonic and fetal tissues are available form the Central Laboratory for Human Embryology at the University of Washington. The laboratory, which is supported by the National Institutes of Health, can supply tissue from normal of 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. Presently, processing methods include immediate fixation, snap fixation, snap freezing in liquid nitrogen, and placement in balanced salt solutions or media designated and/or supplied by investigators. Specimens are shipped by overnight express, arriving the day following procurement. The laboratory can also supply serial sections of human embryos that have been preserved in methyl Carnoy's fixative, embedded in paraffin and sectioned at 5 microns.

INQUIRIES

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HIV
11/92

IIAM PROTOCOL

PRENATAL CARTILAGE OF LEG AND HIP

[redacted]

Tissue Use: The study of Biochemical Characterization of human type X Collagen.

Mailing Address:

[redacted]

Shipping Address: same

Phone: Day: [redacted] (secretary)

Constraints: Whole intact Leg, include ENTIRE HIP JOINT, 22-24(-) weeks gest. Sterile (clean acceptable). Age of fetus must be determined and noted.***indicate foot pad measurement. 4-6 specimens per shipment.
Call with # of specimens before shipment.

Prep.: **SPECIAL MEDIA PROVIDED.** Wet Ice.

PROCEDURE: Dissect by cutting through symphasis pubis and include **WHOLE Illium.** To be removed from fetal cadaver within 10 minutes. WIT. Place each specimen in separate sterile specimen cup. **COMPLETELY COVER WITH MEDIA.**

Shipping: Ship on wet ice. Next day. ~~FED EX our account.~~

[redacted]

No Abnormalities 3/95

6-4

Testimony Opposing House Committee Subsititute HB 2581
Presented March 9, 2000 to the Federal and State Affairs Committee.
by Dr. George F. Tormohlen,
Sr. Minister, Colonial United Church of Christ in Prairie Village
7039 Mission Rd., Prairie Village, KS 66208

I first became sensitive to the abortion issue in the mid-sixties when I was beginning my ministry in small towns in South Dakota and Iowa. At that time abortion was not the issue but unwanted pregnancies for the unmarried were. It did not take me long to become aware of how destructive such pregnancies were to the mother, the father, and the families. Whether the choice was marriage or adoption, there was emotional turmoil which often left lasting scars. Several couples were living in unhealthy relationships because they had "had to get married," and the adoption option resulted in so much shame that the woman would find it next to impossible to return to her home in that small town.

These experiences, along with the realization that the sex drive was not something that was going to be held in check by prohibitions and a conviction in the compassion of the Jesus I found in the Gospels, led me when I moved to Carbondale, IL to become involved in an organization called "Clergy Consultation on Problem Pregnancies." This was a network of clergy across the country who assembled the resources to counsel women with unwanted pregnancies. In the communities in which we worked we established an answering service and offered to consult with women who had an unwanted pregnancy. Once word got out that we were unjudgmental, and we would discuss all options with them, we were inundated with calls. There were two of us involved in the service in Carbondale, and I personally consulted with approximately 350 women in a three year period. My colleague worked with a similar number of women. We helped them calculate how far along they were in their pregnancy, discussed the options of marriage, adoption, and abortion, and tried to help them decide which was the best for them. Whichever option was chosen, we had the resources to help them carry it out. When abortion was the choice, which it was 95% of the time, we had the contacts to help the woman find a safe, legal procedure.

Since our service functioned in the early 70s before Roe vs. Wade, for abortions the women would go to the states and countries where it was legal. At first there was New York, England, and Mexico. Later, abortion became legal in Wisconsin and Kansas. Most of the women we saw were young women, although some were older. They were desperate and their mental health was anything but stable. What was most distressing was that there was so much denial and so much fear that they would procrastinate in consulting with us, and what could have been a more simple termination in the first trimester ended up becoming a more complicated procedure of a late term procedure. Whenever they came to us, they were frightened and desperate women. They had to be to share their situation with a strange clergyman. (We weren't even clergywomen).

As I look back, I am appalled at what these women had to go through. First they had to come up with the money for transportation and the procedure, usually taking up a collection in the dorm. The doctor's fee was approximately $200 - $250. When they would go to Mexico they would be

met at the airport by a man wearing a white carnation, answering to the name of Hernandez. In New York they would exit the airport at a certain door and find a particular limousine which would take them to the clinic. The problem with New York was that there were unscrupulous drivers who would divert the women to other clinics which may not be as safe and were always more expensive. Later when Kansas was an option, they would somehow get to St. Louis, catch a bus for Kansas City, have the procedure, stay an hour or so in the hospital, catch the bus to return to St. Louis, and then find a way back to Carbondale. It's hard for me to imagine a more difficult situation for a young, frightened woman, but they were so desperate that they would choose this alternative instead continuing the pregnancy.

Two situations stand out in my mind. The parents of a 12 year old young woman phoned for an appointment. When the three of them arrived the parents explained that their daughter was pregnant; and after considering the options together, they decided an abortion is what they wanted. I asked their religious background, which we always did. They indicated that it was Missouri Synod Lutheran. I explained that I understood that the Missouri Synod Lutheran Church had taken a position opposed to abortion; in fact, I had read that their church had recently had an annual meeting in New Orleans and had passed a strong resolution in opposition to abortion. The parents said that my understanding was correct, and that they had even been delegates to that meeting and voted in favor of the resolution. However, when they returned home and discovered that their twelve-year-old daughter was pregnant, everything changed. This upstanding, good, active church family was distraught beyond words and now thought that the best decision for all concerned was a safe termination of the pregnancy.

The second situation is a couple in their mid-thirties with whom I consulted. They were from a small town in Southern Illinois and with great embarrassment explained that they had had a brief affair, and now the woman was pregnant. They were both married to other people and wanted to continue their marriages. The woman was hysterical. The man too, who appeared by dress and demeanor to be one of the leading citizens in his community, was devastated. Their decision was to terminate the pregnancy.

While these experiences, and many more like them, took place thirty years ago, they remain vivid in my memory. My impression is that unwanted pregnancies continue to effect people in this way, and desperate women will do just about anything to end the pregnancy. Sometimes the physical health of the woman is effected and on other occasions the mental health is definitely a factor. The Quaker faith at one time published a little booklet which pointed out that life (or health) was not so much about quantity as it was about quality. If there is to be an abortion, an early procedure is certainly preferable; but sometimes due to fear, denial, and the conditions of the pregnancy, a later procedure becomes the only alternative. I would hope that in any law dealing with abortion that there would be exceptions allowing the woman and those who love and are concerned about her to make the decisions which would be most loving and conducive to the woman's health in that particular situation.

Testimony Prepared for the
Kansas Senate
Federal & State Affairs Committee
Thursday, March 9, 2000

Regarding
The Issue of Abortion

by
Dena Vogler
Administrative Director
Women's Health Care Services, P.A.
Wichita, Kansas

My name is Dena Vogler and I am Administrative Director at Women's Health Care Services in Wichita, Kansas. Women's Health Care Services is a specialty provider of late abortion care. Our Medical Director is Dr. George Tiller.

Women's Health Care Services is the only hospital-like outpatient induction abortion facility in the United States. Since the early 70's approximately 60,000 termination of pregnancy procedures have been performed at our facility. The vast majority of these abortions have been provided to Kansas women. The vast majority have been performed in early stages of pregnancy.

By age 45, nearly half (43%) of the women in America will have had an abortion. These women represent all racial, ethnic, socioeconomic and religious backgrounds. Women who seek abortion services are like me, like you, your daughters, sisters, mothers and friends.

The purpose of my testimony today is to put a face on the women who seek and obtain "late" abortion services at Women's Health Care Services.

Women with an advanced pregnancy have special needs and problems. The following list is representative of the circumstances under which women seek late abortions.

- Women with Abnormal Pregnancy
- Victims of Sexual Assault/Sexual Abuse
- Victims of Incest/Child Sexual Abuse
- Women with Chemical Dependency
- Women with Advanced Age
- Young Girls
- Women with Health Problems

In the recent past, the circumstances surrounding the care of two late abortion patients who traveled to Kansas for care received a lot of media attention. It is public knowledge that these young women were cared for at our facility.

"Ramila" was 12 years old. She lives in Detroit, Michigan. She is a victim of incest. Numerous physicians evaluated Ramila. They concurred that continuation of the pregnancy would cause irreversible damage to her health. This young girl was suicidal over the prospect of having her brother's baby. Ramila's family is from India. In her culture, marriages are arranged. Had she had a baby, she would never have had an opportunity to marry. A late abortion allowed this girl to have a future.

"Jennifer"was 14 years old. She lives in Phoenix, Arizona. She is a ward of the state. Her mother was murdered. Her father is in prison. She has been in and out of foster homes for years. She has lived on the streets. She is chemically dependent. She was raped by a 37 year old man. Numerous physicians concurred that continuation of her pregnancy would cause substantial and irreversible impairment to her health. The Arizona Supreme Court allowed her to travel to Wichita for a late abortion.

Ramila and Jennifer's stories are familiar because their tragedies were exposed to the public. Hundreds of Ramilas and Jennifers have received care at Women's Health Care Services.

"Donna" is 48 years old. She is 23 weeks along in her 6th pregnancy. Her youngest child is 18 years old. Donna has a bad back. She takes pain relievers for her fused discs. She hasn't had a menstrual period for three years. She has fibroid tumors in her uterus. The placenta is located at the opening of the cervix. At term, Donna would almost certainly need a C-section. Donna doesn't want to have a baby at 48. Donna is ready to be a grandmother. Donna received a termination of pregnancy at Women's Health Care Services.

"Jackie" is 27 years old. She is 26 weeks along in her 1st pregnancy. Jackie has Down's Syndrome. She is accompanied to Wichita by her parents and her two adult sisters. Jackie has a job. Jackie's level of functioning is that of a 7-8 year old. She suffers from the physical difficulties that many adults with Down Syndrome have. Jackie has been sexually abused by her brother-in-law. Jackie received a termination of pregnancy at Women's Health Care Services.

"Wendy" is 32 years old. She is 25 weeks along in her 3rd pregnancy. Wendy has a tragic personal and medical history. Her first husband is in jail for assault and battery on her. Her current significant other and her father are physically violent to her. She was hospitalized recently with broken ribs. She believes her father would kill her if he knew of her pregnancy. Her mother used to be Wendy's "protector" but she has recently died. Wendy is an alcoholic and she is addicted to cocaine. Wendy received a termination of pregnancy at Women's Health Care Services.

ONE FAMILY'S STORY-MARCIA & SUSAN

Marcia was introduced to Kansas lawmakers in 1997. She was seen at Women's Health Care Services in April when she underwent a termination of pregnancy for severe fetal abnormality. Marcia's baby suffered from Trisomy 18. Marcia recorded an audio tape which detailed her experience. An excerpt from that tape follows. A transcript of her entire testimony is attached.

Excerpt from "Marcia's Story":

My name is Marcia. I'm 45 years old. I lost my first pregnancy in miscarriage when I was 38. I was blessed with a son at 40 and a daughter at 42. Thank God, they are both wonderful and healthy children. My husband, Craig, and I decided that we wanted a 3rd child.

When we found out we were pregnant again, we were guarded but we were very excited. We had an amniocentesis with each of our other children and this pregnancy was no exception. When our amnio results were in, we got a call that the geneticist wanted to meet with us right away. I knew immediately that something was very wrong. That baby that we had so desperately wanted would be born only to die a very painful death. She had what is called Trisomy 18. The odds were that this wasn't going to happen to us and it did. And, it happened to this baby.

We spoke with four separate physicians hoping and praying there might have been a mistake. Each one of them told us we would need to decide what we'd do - either carry this pregnancy to term or decide to terminate. Terminate. That was a word I never thought I would ever be forced to decide about.

I was never pregnant unless I wanted to be pregnant. To me pro-choice was choosing not to get pregnant if you didn't want to be. We agonized over this for weeks, over what to do. We feel like we are pro-life. We believe in children. And, the more my husband and I agonized, the more we realized, it was more loving not to make this baby be born in pain only to die.

And at that point we realized that the only decision that we could make was to either go to Kansas City to the University of Kansas Medical Center which we knew nothing about or we could go to Dr. Tiller's office in Wichita. We live in Wichita.

Dr. Tiller spent a great deal of time with us listening, visiting with us, explaining our options. He was always compassionate and understanding, respectful and professional. If he had not been there for us and most importantly for our baby, she would have been born to die a horrible death.

He's able to help countless numbers of couples in similar situations as ours. People from all over the world that have no where else to turn.

Maybe you can understand from what I have explained what we have been through and maybe not. And, maybe you'll never understand until you stand in these shoes.

I hope with all my heart that you will consider all the parents who desperately want a baby like we do and find they are in a similar circumstance and it is so hopeless...I hope with all my heart that you will continue to allow Dr. Tiller to help put these families back together and give them some peace. Thank you.

ONE FAMILY'S STORY
continued

August 1999

"Susan" telephoned Women's Health Care Services. She was referred to us by a Wichita area obstetrician who specializes in maternal/fetal medicine. Susan is a 28 year old school teacher. She is married. She is in the 25th week of her 3rd pregnancy. She suffers from a medical condition known as HELLP syndrome. HELLP stands for hemolysis (H), elevated liver enzymes (EL), and low platelet count (LP). Susan's health is deteriorating.

In 1996, Susan's first pregnancy resolved in a stillborn delivery at 24 weeks gestation. In 1997, 22 weeks along in her 2nd pregnancy, her membranes (bag of waters) ruptured spontaneously. The aforementioned maternal/fetal medicine specialist performed a therapeutic termination of pregnancy for Susan at Wesley Medical Center.

Susan and her husband adopted a baby boy in 1998. When she found she was pregnant for the third time, she was excited and frightened. Her previous pregnancies had ended so tragically. Her health problems were exacerbated by pregnancy. She needed to be healthy to take care of her infant son. She and her husband so wanted to add to their family.

On August 13, Susan's doctor confirmed that her blood platelets were dropping rapidly. A sonogram revealed that the baby's growth was retarded. He predicted the baby would die within a couple of weeks. He predicted she would become very sick during these weeks. Susan was admitted to our care on August 16. Her abortion procedure was completed without complication.

Susan is Marcia's niece.

The decision to terminate a pregnancy is serious. This is true at five weeks gestation and at twenty-five weeks gestation. Women do not want abortions. They need them.

When continuing a pregnancy constitutes a severe threat to a woman's health...
When two physicians concur that this is the case...
When women NEED an abortion...

This is a decision to be made by the woman in consultation with her family, her doctors, her conscience and her faith. Abortion is a matter of survival for women.

Thank you.

MARCIA'S STORY
April 1997

My name is Marcia. I'm 45 years old. I lost my first pregnancy in miscarriage when I was 38. I was blessed with a son at 40 and a daughter at 42. Thank God, they are both wonderful and healthy children. My husband, Craig, and I decided that we wanted a 3rd child. Actually, we wanted several children, but because we started so late, we knew that wasn't possible. And, we became pregnant twice last year. Both pregnancies ended in miscarriage for us.

We were so concerned about what we were doing and making sure that we weren't doing something cruel. We wanted another child and because it kept ending in miscarriage, we went to see a reproductive health specialist to see if we should even try to have a baby. His advice was absolutely. The odds were in our favor. After two miscarriages during last year, this should be a good one. So, we tried again. When we found out we were pregnant again, we were guarded but we were very excited. We made it past the stage where we had miscarried before. We were thrilled. Finally we would have the last baby that we had wanted so much and that we had prayed for so much.

We had an amniocentesis with each of our other children and this pregnancy was no exception. We knew we were at a slightly higher risk for a problem. The reason in our minds we were having an amnio was to prepare for this - for our child's arrival. When our amnio results were in, we got a call that the geneticist wanted to meet with us right away. I knew immediately that something was very wrong. That is not the way they do things.

We met that evening and our worst nightmare became our reality. That baby that we had so desperately wanted would be born only to die a very painful death. She had what is called Trisomy 18. A chromosome abnormality affecting nearly every aspect of her being. Some babies with this don't ever make it to birth. The ones that do live maybe an hour, maybe a day, a month, never over a year. Each one dies. And, from the moment of birth, with every breath and every function that tiny body would go through would be a struggle and would be painful.

I want to tell you a little bit about Trisomy 18 because I wasn't that familiar with it and I did a lot of research after we found this out. She would have had congenital heart failure. A feeble mind. A weak cry. She would have to be fed through a tube, but they don't thrive - their bodies won't allow them to. Many have ectopic kidneys, double ureters, arterial sclerosis. Every single function of this tiny body would be affected. There are more than 130 abnormalities noted in patients with Trisomy 18 Syndrome. Over 130. It is the 2nd most common multiple malformation syndrome with about .3 per 1000 newborns.

The odds were that this wasn't going to happen to us and it did. And, it happened to this baby. We spoke with four separate physicians hoping and praying there might have been a mistake. And, hoping that one of them would say 'this isn't necessarily the case'. But, there wasn't a mistake. It was an accurate diagnosis.

These babies have a limited capacity for survival. They can be resuscitated but the feeding doesn't help them. Thirty percent die in the first month. Fifty percent by two months. And only 10%, God forbid, survive the first year as severely mentally defective. Not to mention physically defective. Not one of these doctors encouraged us to allow this baby to be born. Of course, they were guarded, and none encouraged us on another procedure but the comment was made by every one of them, 'I'm sorry, I wish there was something we could do. There is not. And, if you are inclined to make a decision to terminate this pregnancy, we are behind you 100%. We support everything that you do.' I thought that was pretty strong medicine. Each one of them told us we would need to decide what we'd do - either carry this pregnancy to term or decide to terminate.

Terminate. That was a word I never thought I would ever be forced to decide about. I was never pregnant unless I wanted to be pregnant. To me pro-choice was choosing not to get pregnant if you didn't want to be. We agonized over this for weeks, over what to do. We feel like we are pro-life. We believe in children. And, the more my husband and I agonized, the more we realized it was more loving not to make this baby be born in pain only to die. That was a hard thing for us to even come to realize. It is so abstract from the way we have ever thought.

We could not decide not to resuscitate her at birth or to take life saving measures only to have to make a decision to take her off of life support at sometime after that. Both of those decisions to not resuscitate or to take her off of life support, are decisions for her to die. It's the same decision we had to make. The difference in our hearts was would we make her be born and suffer and see her suffer and know that we had made her suffer. Or, would it be more loving and dignified for her to not have to ever go through that suffering. What made it even worse for us was that we felt there was no one to help us. All of our doctors are pro-life. We choose them that way. We want them to respect life as much as we do. But even if they had the ability to do this...and, every one of them indicated that this was something they would have done, they didn't even have the facility to do this. It seems so unfair.

This is such a rare syndrome, it's lost in all the paperwork and the insurance companies and the political and religious conversations, because it is so rare, there is no accommodation for it. No hospital would take us. No one would even consider inducing me...to do a procedure for this...to help us with this situation. Because it is such a political issue. And, we felt that very unfair. Because everyone else felt the same way we did but, everyone's hands were tied. And at that point we realized that the only decision that we could make was to either go to Kansas City to the University of Kansas Medical Center which we knew nothing about or we could go to Dr. Tiller's office in Wichita.

We live in Wichita. We live about six blocks from Dr. Tiller's clinic. We drive by it several times a week. We honk at the 'honk for life' signs. We pray silently when we drive by and people are praying outside. I was absolutely devastated to find out that was our choice. How could I possibly go through the gates feeling the way I do? I got physically ill. I heard no stories about him that were good. Or that clinic. Everything that I had heard and knew about what was inside

those walls was horrific to me. I despised what he did and I didn't want to contribute to his cause.

And the more time that passed, the more realistically we knew if we thought about this the way that we had to...we have two small children. We can't be out of town for five or six days and have to arrange care for them. What if something went wrong? What if these doctors in Kansas City...I'm sure they weren't as experienced. The very thing we despised was the very thing we were counting on. That was a doctor that was very skilled and very experienced in what he did for my health. I have two children to think of as well as my husband and myself. Although I was down the list. We had to consider that. Staying in Wichita gave us the chance to come home every day and if there were any complications my own doctor is here in town and I wouldn't have been in a foreign city. So, as much as I despised Dr. Tiller, in my mind he was the most experienced and had the most updated facilities.

We finally made the gut-wrenching phone call and I have to tell you that from that first conversation, I spoke with a woman who was professional, compassionate and efficient. She was my only contact with that clinic for over a week in trying to finalize the arrangements. When we finally arrived, we were immediately escorted to a private room. We were treated with the utmost respect and courtesy and consideration. Nobody tried to fill our heads with anything. They just treated us with respect. In fact, our entire experience with the clinic was handled with the utmost respect for our wishes and for our concerns.

We chose to deliver our baby intact, which I didn't even know was available. I'd never heard that before...so that we could see her and hold her and tell her goodbye. We didn't even know that was possible. Dr. Tiller spent a great deal of time with us listening, visiting with us, explaining our options. He was always compassionate and understanding, respectful and professional.

We learned on our own how different perception is from reality. We all know what perception is...we all know what the perception of this clinic is. But, I will tell you that the reality is a very professional caring man and a very professional caring staff that helped us through this nightmare, this terrible nightmare of our lives, with dignity and compassion and above all expert medical care.
I had so resented this being my only choice, no hospitals to go to. And, after all was said and done, I realized that if I had gone to a hospital, I wouldn't have been treated the same way, I don't think. For I was sure to encounter someone who felt as strongly as I had felt, and believe me no one needs to feel more guilt than you already feel. And, I will always probably feel some guilt for the decision we made for I still believe in life.

My basic beliefs haven't changed, but my heart has changed about Dr. Tiller and about his clinic, his staff and what they do here. If he had not been there for us and most importantly for our baby, she would have been born to die a horrible death. What little innocent baby deserves that just so I can feel less guilt about a decision that I have to make? He's able to help countless numbers of couples in similar situations as ours. People from all over the world that have no where else to turn.

Maybe you can understand from what I have explained what we have been through and maybe not. And, maybe you'll never understand until you stand in these shoes. But, if you had told me a month ago that I would feel this way about Dr. George Tiller, I would have said you were out of your mind. God forbid that you would ever have to go through this, but I will tell you , I thank God, and I never thought I would say this, that George Tiller is here. I will have to live with my decision the rest of my life, but I know in my heart and I know in my head that we made the most loving decision we could for our baby and we could not have done that if Dr. Tiller were not allowed to perform this procedure so late in a pregnancy. I hope with all my heart that you will consider all the parents who desperately want a baby like we do and find they are in a similar circumstance and it is so hopeless...I hope with all my heart that you will continue to allow Dr. Tiller to help put these families back together and give them some peace.

Our little Mollie Claire was our last hope for another child. A lot of dreams died with her but, if her story to you will help you to understand the need for what Dr. Tiller does, the need for his services, for couples like us, then she will have a purpose and it won't feel quite as desperate to us. I hope that you can understand a little bit of what I have talked about and I appreciate you listening. Thank you.

READY Write®

To: The heath Care Center

what is in this for me:
went this is over I can go back to my life. Start
With My golds.
I thank the women heath Care Center for Supporting me
you Give me back my life agin. and on Feb 2, I will be going
back to 5grade a new kid Agin

I thank you all at the women heath center

Ps. thank you
Doctor Tiller

From: Kiesharon [redacted] ☺

LEAGUE OF WOMEN VOTERS OF KANSAS

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

9 March 2000

TO; The Senate Federal and State Affairs Committee
From: The League of Women Voters of Kansas
Re; Substitute HB 2581

I am Darlene Stearns, registered lobbyist for the League of Women Voters of Kansas.

I appear in opposition to Sub. 2581

The League of Women Voters of Kansas is an organization welcoming all citizens of voting age. The League has 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 has long held that position and remains staunchly opposed to any legislation restricting that right.

Darlene Greer Stearns

Darlene Greer Stearns
1530 Grove
Topeka, Kansas 66606
785-235-3757

Sen. Federal & State Affairs Com
Date: 3-9-00
Attachment: # 9-1

Testimony in Opposition to Substitute for House Bill 2581
Before the Senate Federal and State Affairs Committee

by Janet K. Stamper
Legislative Coordinator
Kansas National Organization for Women

March 9, 2000

My name is Janet Stamper, and I am legislative coordinator for the Kansas National Organization for Women, known as Kansas NOW. Thank you Chairwoman Oleen and committeemembers for the opportunity to address you today on behalf of the members of Kansas NOW to oppose Substitute for House Bill 2581.

Kansas NOW opposes this bill because it would put the lives of women at risk by banning abortions through pregnancy, even before viability. The language in Sub. HB 2581 is almost identical to other state's abortion procedure bans that have been found unconstitutional by the U.S. Court of Appeals for the Eighth Circuit.

This legislation puts women at risk because it lacks any health exception and therefore would harm women by denying adequate and appropriate medical care. The bill does not distinguish between procedures that take place before or after a fetus can survive outside the womb. In fact, the bill would apply to all abortions at any time, effectively nullifying the right to choose.

The procedure ban outlined in Sub. HB 2581 interferes with the right of patients and doctors to make private medical decisions without government interference. Whether or not to have an abortion is a decision for a woman to make in consultation with her doctor -- not the government. The Eighth Circuit found that the ban "would also prohibit, in many circumstances, the most common method of second trimester abortion . . . . Under the controlling precedents laid down by the Supreme Court in *Roe v. Wade*, such a prohibition places an undue burden on the right of women to choose whether to have an abortion."

Sub. HB 2581 also disregards the health of the woman by placing a higher value on a fetus than the already full-born and viable women who has a right to her own life. We believe that this debate averts valuable time and resources away from public and legislative discourse about the conditions of poverty, domestic violence, inequitable pay and the lack of political power that affect women in Kansas on a day-to-day basis.

Kansas NOW rejects this bill and any legislation that proposes to eliminate the constitutional rights of women restricting them from participating fully and equally in all aspects of society. Therefore, I ask that this committee also reject Sub. HB 2581 as it puts women at risk and instead send the message that women have the right to safe, comprehensive and quality healthcare.

Thank you.

TESTIMONY

Substitute H.B. 2581

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
Wednesday, March 8, 2000 – Room 245-N

KANSAS CATHOLIC CONFERENCE
Beatrice E. Swoopes, Acting Executive Director

Chairperson Oleen, 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 **Substitute 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. **Substitute House Bill 2581** retains most of the language in current law, and addresses the loophole that allowed this procedure to be used in Kansas. We support the elimination of the mental health exception and the banning of the procedure for all pre-born children regardless of gestational age.

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 **Substitute H.B. 2581**.

true to life

Bringing the facts to the abortion debate: An ongoing project by the Secretariat for Pro-Life Activities of the National Conference of Catholic Bishops

MYTH. **Partial-birth abortions are done only in extreme circumstances.**

FACT. **"I learned right away that this [partial-birth abortion] was being done for the most part in cases that did not involve those extreme circumstances," admits Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, adding that "the abortion rights folks know it, the anti-abortion folks know it, and so, probably, does everyone else." Elaborating on this, Fitzsimmons said: "When you're a doctor who does these abortions and the leaders of your movement appear before Congress and go on network news and say these procedures are done only in the most tragic of circumstances, how do you think it makes you feel? You know they're primarily done on healthy women and healthy fetuses, and it makes you feel like a dirty little abortionist with a dirty little secret."**

A doctor at an abortion clinic with 1500 partial-birth abortions each year, says "We have an occasional amnio abnormality, but it's a minuscule amount. Most are Medicaid patients...and most are for elective, not for medical reasons: people who didn't realize, or didn't care, how far along they were."

An investigative report by the *Washington Post* (9/17/96) concluded: "[I]n most cases where the procedure is used, the physical health of the woman whose pregnancy is being terminated is not in jeopardy...Instead, the 'typical' patients tend to be young, low-income women, often poorly educated or naive, whose reasons for waiting so long tend to end their pregnancies are rarely medical."

Dr. Martin Haskell, who helped develop the method, says that of the partial-birth abortions he performs, "80% are purely elective." In court, Dr. Haskell cited "agoraphobia" (fear of open spaces) as a medical reason for partial-birth abortion.

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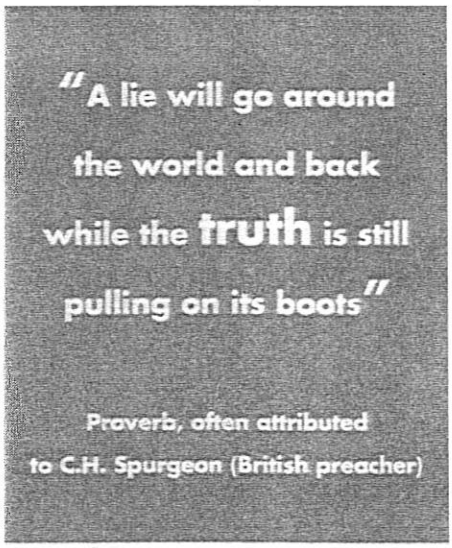
MYTH. **Women carrying children with certain abnormalities require partial-birth abortion as the best and only option to protect their life, health or future fertility.**

FACT. **Several women have publicly stated that they had no choice, in order to protect their lives and future fertility, but to have a partial-birth abortion upon diagnosis of fetal or congenital anomalies. The President and many in the Senate continue to rely on these stories as the basis for their opposition to a ban.**



But leading medical authorities reject these claims:

Former Surgeon General C. Everett Koop is a pediatric surgeon who has treated children with the same genetic anomalies cited as requiring a partial- birth abortion. He has stated that "in no way can I twist my mind to see that the late-term abortion as described –you know, the partial-birth, and then the destruction of the unborn child before the head is born--is a medical necessity for the mother."

The American Medical Association states that "Our panel could not find any circumstance in which the procedure was the only safe and effective abortion method."

Though opposed to a ban, the American College of Obstetricians and Gynecologists "could identify no circumstances" where a partial-birth abortion "would be the only option to save the life or preserve the health of the woman (AGOC Statement of Policy, 1/12/97).

Harlan Giles, M.D., a professor of Ob/Gyn at the Medical College of Pennsylvania, who performs abortions in the second trimester, testified at a trial over Ohio's Abortion Law: "And I cannot think of a fetal condition or malformation, no matter how severe, that actually causes harm or risk to the mother of continuing the pregnancy... Other severe even lethal chromosome abnormalities, those mothers, if you follow their pregnancy have no higher risk of pregnancy complications than for any other mother who's progressing to term for a delivery."

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MYTH. **Partial-birth abortions are few in number; perhaps only several hundred are performed nationwide each year.**

FACT. **Ron Fitzsimmons says he "lied through his teeth" when he "spouted the party line" to the media by claiming about 500 partial-birth abortions are performed per year. Fitzsimmons now says that 3000 to 5000 partial-birth abortions are likely performed annually.**

In 1992, Dr. Haskell estimated he had performed "over 700" partial-birth abortions. In 1995, Dr. James McMahon submitted evidence to Congress showing he had done 2000 partial-birth abortions.

Press reports have revealed that one clinic in New Jersey performs 1500 partial-birth abortions annually. A New Jersey area doctor reported that he performed about 130 partial-birth abortions annually, and that four former students in New York were using the procedure.

Since 1995, more and more providers have reported that they also do the procedure: e.g., Dr. William Rashbaum says he has performed over 19,000 late-term abortions, including partial-birth abortions "routinely," since 1979; an anonymous New York doctor reports performing about 185 per year; in 1996, Dr. Leroy Carhart attempted about 190 in Nebraska; in 1988, Dr. John Biskind was reported to be performing partial-birth abortions in Arizona.

An estimate of 5000 would mean that partial-birth abortion occurs about every other hour, every day of the year.

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August 1998

STATE OF KANSAS

TIM CARMODY
REPRESENTATIVE, SIXTEENTH DISTRICT
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OVERLAND PARK, KS 66214

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TOPEKA

HOUSE OF REPRESENTATIVES

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CHAIR—RULES AND JOURNAL
VICE-CHAIR—JOINT COMMITTEE ON PENSION BENEFITS AND INVESTMENTS
VICE-CHAIR—JUDICIARY
MEMBER—KANSAS 2000

March 8, 2000

The Honorable Lana Oleen
Chairman, Senate Federal & State Affairs Committee
State Capitol, Room 136-N
Topeka, Kansas 66612

RE: Your Letter 3/7/00

Dear Senator Oleen:

Upon arriving at my office this morning, I found your letter of March 7th in my morning mail. Thank you for your invitation to address your committee on House Bill 2581, the partial birth abortion bill, on either today or tomorrow.

I am a little mystified as to why you want me to clarify my position. The 1998 bill that you refer to is now a law which can be found at K.S.A. 1999 Supp. 65-6701, et seq. My personal opinion is really not material as to what the statute means. As you are apparently unaware, that the courts interpret the law, not individual legislators. If you are interested in whether or not the 1998 law contains, as you put it, "a mental health exception", I suggest that you join with other legislators in petitioning the Kansas Supreme Court for a writ of mandamus to require the Governor and the Attorney General to enforce the current law. The implication in your question as to the existence or nonexistence of, as you put it, a "mental heath exception", could then be determined by the branch of government charged with such responsibility.

In addition, I suggest that you review the brief filed on behalf of the State of Kansas in the case of Tiller, et al. v. Mitchell, et al (Kansas Supreme Court Case #98-81285-S). In that case, counsel for the State of Kansas argued, at Page 17;

> "If necessary, and based on the court's duty to construe a statute as constitutionally valid . . . the court can properly interpret the phrase "major bodily function" to include both physical and mental functions" (citations omitted).

You have also mis-characterized my position as supporting a "mental health exception". As commonly understood in the context of the abortion debate, "mental health exception" means

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that a woman may obtain an otherwise prohibited abortion if continuation of the pregnancy would adversely impact her mental health and peace of mind. This "feel good" interpretation of mental health is not what the bill passed in 1998 provides. K.S.A. 1999 Supp. 65-6701 provides an exception for "severe and irreversible impairment of a major bodily function". I do not consider that statute to contain a "mental health exception" because it does not authorize a viable abortion to preserve a woman's "mental health", but to prevent severe and irreversible impairment of a major bodily function.

I suggest that your testimony to the Federal and State Committee would be more relevant than mine. After all, it was your amendment that created the perceived ambiguity between K.S.A. 65-6703 and 65-6721. Why did you offer the amendment? Why did you choose language which differed from the post viability ban? Did you confer with Dr. Tiller, Carla Stoval, Bill Graves or the Senate President in preparing the language of your amendment? Why haven't you requested enforcement of K.S.A. 65-6721, your amendment? At the time you offered your amendment on the floor of the Senate, was your intent to ban a particular procedure only and not to impact the post viability provisions contained earlier in the bill? Or, on the contrary, was it your intention to torpedo the bill by inserting a provision that you knew would be used by the Governor, the Attorney General and other parties as a reason to avoid enforcement of the law and to be derelict in their obligations under the constitution? If you are willing to testify as to the answers to these questions, I might be interested in testifying as well.

Respectfully,

Rep. Tim Carmody

cc: All Members of Senate Federal and State Affairs Committee

Expert Testimony of
Jared P. Pingleton, Psy.D.
Licensed Clinical Psychologist
KANSAS STATE SENATE
March 8-9, 2000

Dear Senator Oleen, Chairperson,
Federal and State Affairs Committee:

Thank you for your consideration of my testimony today. I regret I am unable to deliver this in person due to previous scheduling commitments.

I want to articulate serious concerns I see as a clinical psychologist about the controversial legislation regarding the proposed "mental health" exception permitting late term, or "partial-birth" abortions in the state of Kansas. As I have testified before both Senate and House committees considering this momentous human rights issue, there are grave problems with this proposal which are rarely, if ever, considered--definitively, legally, logically and clinically.

The phrase, "mental health", vis-a-vis the mother's abortion of her child is purposely vague, and in the original Doe vs. Bolton case was never clearly or specifically defined. The originator of this heinous procedure testified before Congress that he has never performed a partial-birth abortion for the health of the mother. This "mental health" exclusion is unprecedented. In no other realm of mental health (or in all civilization for that matter) does the supposed well-being of one person necessitate the suffering, traumatization and destruction of another.

Secondly, legislation which allows for a late-term abortion for the supposed mental health of the mother functionally permits persons who are not trained, supervised or licensed in the diagnosis and treatment of psychological disorders to do so (e.g., obstetricians). Practicing outside the realm of one's clinical expertise and certification violates obvious ethical, legal and licensure considerations. Additionally, if a mother's mental health needs are supposedly so severe that her viable baby requires destruction, where is the provision providing treatment for such? This is inherently irresponsible and hypocritical.

Thirdly, the utter absurdity of this nefarious notion is illustrated by the question that if most of the baby (all except the head) can be delivered without causing alleged mental/emotional trauma to the mother, then why can't the entire baby be delivered resulting in a viable birth?

Finally, no psychological data exists which states a mother's mental health is improved by the destruction of her viable post-twenty week-old baby. To the contrary: many women suffer deeply from Post-Abortion Syndrome. I have personally worked over the last 23 years with dozens of women suffering from Post-Abortion Syndrome (PAS). A preponderance of clinical evidence exists which verifies that many women experience PAS. This is often an extremely pervasive and persistent complex mental health disorder resulting in a myriad of psychological and relational difficulties consistent with the diagnosis of Post Traumatic Stress Disorder (which may be manifested years later). The symptomology of PAS includes the following characteristics:

a. guilt
b. anxiety
c. psychological "numbing"
d. depression and thoughts of suicide:
    -sad mood, dysphoria
    -sudden and uncontrollable crying episodes
    -deterioration of self-concept
    -sleep, appetite, and sexual disturbances
    -reduced motivation
    -disruption in interpersonal relationships
    -anhedonia

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e. Anniversary Syndrome
f. re-experiencing the abortion
g. preoccupation with becoming pregnant again
h. anxiety over fertility and childbearing issues
i. interruption of the bonding process with present and/or future children
j. survival guilt
k. development of eating disorders
l. alcohol and drug abuse
m. other self-punishing or self-degrading behaviors
n. brief reactive psychosis.

And most important, anyone who may experience even severe mental health disorders can be successfully treated without harm to herself or her child.

No valid psychological reasons exist for the brutal and inhumane practice of partial birth abortion. Urge your legislators to vote rationally and compassionately to end this unconscionable atrocity.

Thank you for your time and consideration on this most important matter.

Respectfully submitted,

Jared Pingleton, PsyD

Jared P. Pingleton, Psy.D.
Clinical Psychologist

Testimony to the Senate Federal and State Affairs Committee

By Gloria Schlossenberg
10124 W. 96th Street
Overland Park, KS 66212
(913) 492-2210

March 9, 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 remorese if you voted against a woman's right of choice in this situation. All my life I have been a great believer that when you have a problem you face it and don't let it drag on and on. Life is too short. Who does it help?

Please don't hurt these women -- they suffer enough.