Approved: March 20, 2006
Date

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Vice-Chair Arlen Siegfreid at 1:30 P.M. on March 15, 2006 in Room 313-S of the Capitol.

All members were present except:
Chairman Representative John Edmonds - Excused
Representative Judy Morrison - Excused

Committee staff present:
Athena Andaya, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Mary Torrence, Revisor of Statutes Office
Carol Doel, Committee Secretary

Conferees:
Representative Dick Kelsey
Kathy Ostrowski, Kansans for Life
Rev. Thom Belote - Abstinence Plus
Chimene Schwach - Abstinence Plus
Pam Ippel - Abstinence Plus
Branden Bell - Abstinence Plus

Others attending:
See attached list

Vice-Chairman Siegfreid opened the meeting for bill introductions. There were none.

Attention was directed to written testimony from Representative Deena Horst regarding **HB 2931** which was heard in committee on March 14, 2006. (Attachment 1)

Vice-Chair Siegfreid opened the floor for public hearing on **HB 2792** - relating to abortions; concerning minors.

Representative Kelsey came before the committee urge the passage of **HB 2792.**

Kathy Ostrowski, Legislative Director for Kansans for Life, state affiliate of the National Right to Life Committee presented testimony supporting **HB 2792.** The bill would require that an appropriate ID be shown by the pregnant teen and her companion to the abortion clinic staff. It would also require the companion to declare his or her relationship to the pregnant teen, and any known connection to the presumed father of the unborn. Ms. Ostrowski also related that the bill will yield statistics, guarded for privacy, on the number of bypasses granted, as well as other actions taken by the court if it has reason to believe the pregnant teen seeking a waiver is experiencing abuse. It will assist parents whose rights have been intentionally violated by abortionists and their staff. Ms. Ostrowski stated that they would support language that specifically holds the clinic responsible for the costs of any abortion-caused medical treatment for a minor if the clinic violated the parental involvement provisions of Kansas abortion law. (Attachment 2) Also included in her testimony was an article entitled "*Statutory Rape: The Dirty Secret Behind Teen Sex Numbers*" by Gracie Hu, Family Research Council. (Attachment 3), an article " *Protecting Children From Harm*" by Phill Kline, Kansas Attorney General (Attachment 4), case stories of teen abuse (Attachment 5), a chart showing teen-age abortion statistics (Attachment 6), and an article entitled "*Is This What Legislators Intended For Judicial Bypass*" (Attachment 7).

There were no other proponents to speak to the bill and Vice-Chairman Siegfreid opened the floor to the opponents.

Reverend Thom Belote spoke in opposition to **HB 2792.** Reverend Belote stated that he believes that the best way to decrease the number of abortions in this state is to decrease the number of unintended pregnancies; and the best way to decrease the number of unintended pregnancies is to arm our sons and daughters with the knowledge they need to protect themselves. Reverend Belote is requesting a hearing on the Abstinence Plus

Education Act which he feels is an honest attempt to safeguard the health and well being of our children, and not a politically motivated piece of legislature. (Attachment 8)

Chimene Schwach is a licensed substance abuse counselor specializing in adolescent care and she opposes **HB 2792.** Ms. Schwach gave the opinion that the problem with the bill is that it puts those vulnerable teenagers - those who need the most protection- in harm's way, or forces them to go through at least one, and maybe two court proceedings. (Attachment 9)

Pam Ippel is a parent who addressed the committee strongly opposing **HB 2792.** In Ms. Ippel's opinion the real answer to teen pregnancy is preventions and strong, caring families, not new laws that endanger our, or other families' daughters. She asked that the committee please vote no on **HB 2792.** (Attachment 10)

Branden Bell also presented testimony opposing **HB 2792.** Mr. Bell stated that he believes that the amendments contained in this bill will create a legal morass which will suck money from the coffers of the State and embroil it in needless litigation for the foreseeable future. He has problems with Lines 21-25, Page 1 of **HB 2792** relating them as deficient. He also has problems with Page 1 Lines 40-43 which he describes as a legal landmine. Mr. Bell related that another troubling aspect is contained in Lines 37-39, Page 4. In conclusion Mr. Bell stated that the purpose of our system of laws is to attempt to offer clear guidance and predictable outcomes in order to allow others to appropriately plan future conduct and that this law does neither. He described this law as the equivalent of the giant shark in the movie *JAWS.* (Attachment 11)

Written testimony opposing **HB 2792** was submitted by Irene Bettinger, MD, Diplomat, American Board of Psychiatry and Neurology. (Attachment 12)

Adoption of minutes from the meetings of February 21st, February 23rd, March 1st, March 2nd, March 6th and March 7th was requested.

*Representative Dillmore made a motion to adopt the minutes from February 21st, February 23rd, March 1st, March 2nd,, March 6th and March 7th as read. Representative Mah seconded the motion. Minutes were adopted.*

# FEDERAL AND STATE AFFAIRS
## GUEST LIST

Date 3-15-06

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| Marilynn Autt | |
| Crystal Bachman | |
| Sarah Anderson | |
| Chimene Schwalb | |
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| [illegible] | |
| Brett Johnson | |
| Debra Rukes | |
| [illegible] | |
| Ken Seeber | Ken Law Firm |
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| Margaret Howieson | |
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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
CHAIRPERSON: ARTS & CULTURAL RESOURCES
JOINT COMMITTEE
VICE-CHAIRPERSON: EDUCATION (K-12)
MEMBER: HIGHER EDUCATION
ECONOMIC DEVELOPMENT
LEGISLATIVE EDUCATION
PLANNING

# TESTIMONY ON HB 2931

Chairman Edmonds, Vice-Chairman Siegfreid, Ranking Minority Member Burroughs and members of the Federal and State Affairs Committee, thank you for allowing me to appear before you this evening in support of HB 2931.

This bill was drafted in an attempt to find a solution to a situation in which a member of the Salina business community was denied access to his personal property which was located in a business which had been the subject of eminent domain. Mr. Frick was going to attend today, but he is ill so will be unable to attend so I have included e-mails which outline his angst with the process. Along with his complaints he has included suggestions for changes.

It is my understanding that the day the payment was made to the court, the City of Salina padlocked the building, claiming all of the personal property of the owner and of those business persons leasing space from him belonged to the city. No notice was given that the payment was to be made, and the individuals had no indication that they needed to remove their property by that day. [See attachment #1]

It is also my understanding that this situation continues to be a problem, because of several issues surrounding this eminent domain action. [These are outlined in an e-mail from Mr. Frick,the former owner of the land and building in question. He has made several suggestions for changes in other areas of the eminent domain law which you may want to take under advisement. (See attachment #2)] The specific suggestions he has made regarding this narrow component of eminent domain issues are found on page 2 of his e-mail...I have starred the portions of the email which seem to refer to the issue in the bill. In addition, his accountant has also e-mailed me with a number of documents outlining what is considered by the federal government to be personal property and what is considered real property. The accountant has suggested that these federal codes be used as the guide for distinguishing between real and personal property. [Those codes are: Real Property - 1250 & Personal Property - 1245.]

I would suggest that Mr. Frick's idea for the granting of a longer period of time than 3 days be favorably considered. I apologize to the leadership and to the membership of the committee. This bill was drafted when the revisors were under a lot of stress from moving and from our many requests so I didn't ask for a change although I believed the three days mentioned in the law to be too short of a time period.

Thank you in advance for your consideration of this narrow, but necessary change to the eminent domain law(s).

Deena Horst

Deena Horst 69th District

FEDERAL AND STATE AFFAIRS
Date 3-15-06
Attachment 1

Attachment - 1

**From:** "Horst, Gordon" <gordon@worldlinc.net>
**To:** <"Undisclosed Recipients"@server2.saraney.com>
**Date:** 3/12/2006 9:44:27 PM
**Subject:** Hope this condensed version helps you. (fwd)

===== Forwarded message from "Ben Frick" <b8j8frick@hotmail.com> =====

\From: "Ben Frick" <b8j8frick@hotmail.com>
To: "Horst,
Gordon" <gordon@worldlinc.net>
Subject: Hope this condensed version helps you.
Date: Sun, 12 Mar 2006 14:07:45 -0600

In our case, the city paid the court the condmenation purchase price for our real estate on this Friday afternoon.

Later that same Friday, the city sent the police to our corner to close down the Lounge and Clubs. They came in the dress shop the next day and informed the owner who was leasing the dress shop from us that all of his clothes and merchandise now belonged to the city. They ran off the customers he had in his shop and told them they could not take the clothes they purchased with them because they now belonged to the city. The police ran off all the vendors who had rented space in the flea market in the parking lot telling them that they could no longer be there because it now belonged to the city. They even claimed that the food in the restaurant now belonged to the city and tried to prevent food prepared for a catered wedding reception being held at a downtown hotel from being removed from the restaurant to be delivered to the wedding reception. The police tried to prevent a baby's high chair needed for the wedding reception from being taken out of the restaurant too.

This all happened on a Friday afternoon, Friday evening and Saturday morning. We couldn't get back into court to get something done about the personal property, trade fixtures, etc until Monday. There was a meeting held after that Monday identifying and agreeing to what was personal property, trade fixtures, etc., and what did not belong to the city. It was made up by the city, signed by the city manager and a month later, the city reneged on the whole agreement.

The city, through their police force, succeeded in running off all the business that the businesses had left.

===== End forwarded message =====

Attachment #2

iManager v2.12.1

Virtual Server Administration Suite

**Folder List**
INBOX
Outgoing
Junk Mail

Other...

**Address Book**
View Contacts
Add New Contacts
Import Contacts

**Spam Filters**
Spam Filters are Active
View/Edit Spam Filters

**Autoresponder**
Autoresponder is Off
Edit Settings

**{INBOX} : Please give to Deena -- "Ben Frick" <b8j8frick@hotmail.com>**

Current Mail Folder: {INBOX} Message #: 203/203 Message Size: 30.6 kb

**To:** "Horst, Gordon" <gordon@worldlinc.net>
**Date:** Sun, 12 Mar 2006 12:32:44 -0600
**From:** "Ben Frick" <b8j8frick@hotmail.com>
**Subject:** Please give to Deena

[ Attachment #1 ]
[ Type: text/plain Encoding: quoted-printable Size: 2.1 k ]

Some suggestions to improve eminent domain process, move, relocation, search, and reestablishment.

1.. After the original appraised value of the property is found not acceptable by the landowner, a judge appoints 3 supposedly neutral people to serve as appraisers to collectively agree on another value for the property.
Neither the purchasing agency or the landowner are supposed to have any input or comment in the selection of the 3 appraisers.

In our case one of those appointed to serve as one of the three appraisers was a real estate man who had tried to sell an RTC property to someone and was involved in aiding the theft of personal property contained in the property he was trying to sell. We were successful bidder and bought the property and were instrumental in his getting caught in the theft investigation. He was appointed to be one of our three appraisers and we weren't even allowed to tell anyone about our adversarial relationship, so he really got even with us for turning him in. Another one of the three appraisers was a former Saline County Appraiser and was employed by the appraisal firm that provided the original appraised value that we rejected. He was given the opportunity to make his employer's appraisal look more accurate by keeping the value the three appraisers arrived at lower than a non-biased person would have, and we were not allowed any input or comment in this persons appointment either.

The landowner and the purchasing agency should have equal opportunity to object, comment, or agree on the three persons proposed to be appointed.

My thoughts on this are, if they are taking someone's home, be sure that at least one and maybe more of the three people appointed to arrive at a fair purchase price be an actual homeowner. If they are taking a service station, make one of those appointed owning a service station or formerly owning a service station. The same goes for a clothing store, stockyard, restaurant, bar, tavern, etc. Some of those appoint should have some working knowledge of the business or residential area being taken.

A while back, when the State was supposed to be fixing the open records laws, they excluded real estate appraisals that the county appraisers have from the open records rules except for licensed real estate brokers. In this case, the three people appointed to serve as appraisers for the eminent domain process, since to be fair should not be exclusively real estate professionals, can not obtain this very useful information to aid in the appraisal values they have to come up with. If this information was allowed to be obtained under the open records requests by even the original property owner, it may help them be more agreeable and satisfied with the price offered for their property if they could have some information to go on.

I really believe that if there is some consideration given to real experience, familiarity, or knowledge of the particular property and it's use and operation, a lot of the fear and distrust people have of the eminent domain process would be lessened.

2.. The judge's instructions to the three people appointed to arrive at an appraised value of the property to be taken should be carefully instructed as to what is personal property, tools of the trade, trade fixtures, and business accessories, not to be confused with permanent real estate structure that an agency is taking. The personal property lists that the county appraiser has which include stoves, refrigerators, walk-in coolers, freezers, hoods, prop walls, mirrors, murals, etc., are useful in determining personal property. The IRS on personal property, tools of the trade, trade fixtures, etc for depreciation schedules and other tax records is a good guide to define what a particular business must retain to continue that business. Things like the feature walls that Guiterrez Restaurant had moved from their location on South Ohio Street to their new location at I-35 are a good example of what is considered personal property, tools of his trade, and accessories for his restaurant. This information is also very helpful in showing what personal property, accessories, tools of the trade, and trade fixtures that would be involved in moving and relocation and reestablishment of the particular business that is to be taken.

3.. The moving, relocation, and reestablishment process is as important and more complicated than the original condemnation process for the real property. The original relocation specialist hired to handle our relocation had a real physical presence in Salina and familiarized himself with our property, the businesses located there, and the operation of the 14 business entities located on our corner. He was physically available to explain the process to us and to allow us to ask questions and him make suggestions to help with the details of the businesses moving and setting up business in another location. He researched the county records, personal property lists, number of entities located at our property and told the purchasing agency that moving, relocation, reestablishment, etc for the 20,000 square foot building, 3 acres of paved parking, and 14 business entities involved could cost as much as 3 ½ times as much as the original purchase price of the real estate that was taken. The taking agency, in this case, the City of Salina, promptly fired him. The city replaced the qualified relocation specialist with an attorney in an office 180 miles away from Salina. He visited the site only once, and did not ever check the individual businesses for their wants and needs.

The federal regulations regarding relocation, if followed like they are supposed to be are reasonably fair and make pretty good sense. We might suggest the following:

1.. The relocation rules specify that the relocation agent be a qualified specialist in the relocation process.
2.. The relocation specialist is supposed to be readily available and have a physical presence in order to be able to extend a helping hand to help this process along. A sympathetic, understanding, readily available relocation agent can go a long way toward helping the displaced homeowner and displaced business person make the transition to a new location during this extremely stressful time.
3.. A repair that is needed in this process is if it were possible that the minute the property is taken by the court or through the three appraisers, a true qualified relocation specialist should be hired and made available to the property owners and business owners soon to be displaced. They should not have to wait for the 30 days the purchasing entity is allowed to pay the purchase price into the court to start getting advice on what they are supposed to do looking for a new place to move.
4.. The qualified relocation specialist that is hired by the entity must be absolutely unbiased in order that the displaced businesspersons and displaced residents feel they can trust them. If the specialist supplies information to the purchasing agency, the same information must be supplied to the displaced business or resident. In order for this process to run smoothly, both sides must feel they can trust the qualified relocation specialist or everyone is wasting their time.
5.. After the two required moving bids are furnished to the relocation specialist and the purchasing entity, the displaced business should be allowed more than 3 days to move. They should be allowed at least 10 days to move to a new location, or if no new location is available at this time, move to secure storage until a new location is made available.
6.. If an agency like a city takes a property and forces a business out, there should be something in the law that the purchasing agency has to come up with a like type site to move the business to that would allow them to stay in business on about the same level as they were before they were forced out. Like the Topeka bike shop and bar, some people questioned the purchase amounts that the businesses wanted for the purchase of the property. If they had gone into the eminent domain process, not only would the people who were pushing the project have to pay for the purchase of the property, but the moving, relocation, reestablishment, costs that could exceed the property purchase price by as much as 3 ½ times under the federal standards. Maybe that is why they tried to go another way and relocate the bar for the owner themselves. Maybe it was a better deal to pay the bike shop owner more for the part of his property they took and let him stay right were he was than to fight over the price the owner wanted and still have to pay to relocate him. This sounds like a win, win action.

4.. We had to appeal our relocation process. The purchasing agency which in this case is the City of Salina, appointed the hearing officer who would hear out appeal. They appointed a former city manager who was also employed by the City of Salina as a deputy-city manager at the time he was hired to serve as the hearing officer for our appeal. According to the city, they were allowed to do that under the regulations and even though we questioned how an employee of the city could be unbiased in deciding how much his employer, the city, was going to have to pay us for our relocation. A part of any change should be that should a relocation process be appealed, that the hearing officer appointed to hear the appeal should be unbiased. He should not be a former city manager, present deputy city manager, employed by the city or in any way connected to the city or any other agency. It would be helpful if the hearing officer had a working knowledge of the type

of business for which he was judging the process of relocation so he would know what he is dealing with.

5.. We couldn't find anyone to answer our questions or listen to us when we tried to get someone's attention to do something about what the city was doing to us that was not following the rules, was unfair and we knew was wrong. We hesitate to advocate expanded government, but there should be some kind of agency whether it is connected with the governors office, the department of transportation, the highway department, or some place that can hear complaints from displaced property owners that the purchasing entity is not following the regulations. The displaced businesspersons need a sounding board to truly investigate what some government entities or agencies are doing to them. If some source of relief is not provided to hear the complaints, the words "eminent domain" will continue to be two of the most hated and feared words anyone who owns any property or a business dreads hearing.

Deena, If this information is not enough, and you need me to testify, please let me know the time and place and I will be there. I need to get in and out right away because of some pressing needs in Salina.
Best, Ben

>> View text/html attachment separately <<
>> Save text/html attachment to server <<

Printer Friendly Format

**Current Mail Folder:** {INBOX}
**Message #:** 203/203
**Message Size:** 30.6 kb

**Actions:** Redirect Message
Forward Message
Reply to Message
Group Reply
Save Message
Delete Message

[ iManager Main Menu | Mail Manager Preferences | Logout ]

Kansans for Life

1-800-928-LIFE (5433) www.kfl.org

**State Office**
2501 East Central
Wichita, KS 67214
(316) 687-5433

**Legislative Office**
929-A So. Kansas Ave.
Topeka, KS 66612
(785) 234-2998

**K.C. Regional Office**
7808 Foster
Overland Park, KS 66204
(913) 642-5433

## Proponent - HB 2792, Teen Protection Act

March 17, 2006
House Federal State Affairs Committee
Chairman John Edmonds

Good afternoon Chairman Edmonds and members of this committee, I am Kathy Ostrowski, Legislative Director for Kansans for Life, state affiliate of the National Right to Life Committee. I am here to voice our support for HB 2792, the Teen Protection Act.

The state has an interest in promoting the health and safety of young girls experiencing an unplanned pregnancy, as well as the interests of the parents seeking to provide support and guidance to their minor daughters during this difficult time.

In cases where the pregnancy results from unlawful conduct by adult men, HB 2792 will provide greater assurances that unlawful acts will come to the attention of law enforcement officials so that perpetrators can be prosecuted.

Studies consistently show that infants born to high-school aged mothers are fathered by adult men, not similarly aged boys. Other studies show that a majority of girls having sex at age 15 or under were raped or coerced. *(see statutory rape, attachment A, and protecting children, attachment B)*

An adult male who has criminally impregnated a minor should not be allowed to manipulate the state abortion law to shield his crimes. This has been happening across the U.S., and it may be occurring here.

In Kansas, a teen seeking an abortion is supposed to be accompanied by an adult with her best interests, which may or may not be a family member. In abortion clinics nationwide, however, predators and their friends and relatives have masqueraded as the teen's blood relative or best friend. *(see predators, attachment C)*

The Teen Protection Act, HB 2792, would require that an appropriate ID be shown by the pregnant teen and her companion to the abortion clinic staff. It would also require the companion to declare his or her relationship to the pregnant teen, and any known connection to the presumed father of the unborn.

30 states have parental involvement laws, requiring consent or notification of at least one parent before an abortion can be performed on a minor. However, there is no law to prevent an adult from taking a child to a state in which these parental laws are weaker, or not in existence. The proposed federal Child Custody Protection Act would make it a crime to take teens out of state for this purpose, and although this bill has repeatedly been passed in the U.S. House, it is stalled in the U.S. Senate. HB 2792 would allow parents to sue clinics for violations of their parental rights. *(continued)*

Taking minors out of state to a state with "easier" or non-existent parental involvement laws has become a serious problem for Missouri and they passed a law last year to address it. The Missouri law allows parents to sue abortion facilities or their staff when they help a teenager get a secret abortion out of state. It has been ruled Constitutional in its first challenge.

This Missouri law is pertinent to Kansas abortionists because more Missouri teens are aborted here in Kansas than are Kansas teens. *(see chart D)* Missouri has a "tougher" parental involvement law than Kansas: Missouri requires minors to obtain parental consent from one parent while Kansas requires notice to one parent prior to abortion of a minor.

In 1992, Kansas revised its abortion law, including provisions for minors to include a judicial bypass, or waiver, of parental notice. No statistics are available on how often the court is petitioned for these waivers, or how often the waivers have been granted. The legislative intent of parental waiver appears to have been mischaracterized by some abortionists over the years. *(see aid for women, E)*

HB 2792 will yield statistics, guarded for privacy, on the number of bypasses granted, as well as other actions taken by the court if it has reason to believe the pregnant teen seeking a waiver is experiencing abuse.

The Teen Protection Act, HB 2792, will assist parents whose rights have been intentionally violated by abortionists and their staff. In addition to section 2, provision (n), we would support language that specifically holds the clinic responsible for the costs of any abortion-caused medical treatment for a minor if the clinic violated the parental involvement provisions of Kansas abortion law.

Oklahoma passed such a law, and it survived a challenge up through its state Supreme Court. *(see Nova v Gandy, July 2005 416 Fed S 3rd.)* We believe that parents of minors aborted in Kansas will appreciate similar protection.

Thank you, I stand for questions.

# Statutory Rape: The Dirty Secret Behind Teen Sex Numbers

**by Gracie Hu, Family Research Council** (excerpted)

Contrary to the common perception that teenage sex and pregnancy typically stem from two teenagers getting caught up in the heat of the moment, new research reveals that many teenage girls are being sexually exploited and impregnated by adult men. **Adult men fathered two-thirds of the infants born to school-aged mothers** in California in 1993. On average, these men were 4.2 years older than the senior-high mothers and 6.7 years older than the junior-high mothers.[1]

Likewise, a review of California's 1990 vital statistics found that men older than high school age sired 77 percent of all births to high school-aged girls (ages 16-18) and 51 percent of births to junior high school-aged girls (15 and younger). Men over age 25 fathered twice as many teenage births as did boys under age 18, and men over age 20 fathered five times more births to junior high school-aged girls than did junior high school-aged boys.[2]

**2/3 of births to teenage girls nationwide are fathered by adult men age 20 or older**

Unfortunately, this phenomenon is not limited to the state of California. A recent study by the Population Reference Bureau found that about two-thirds of births to teenage girls nationwide are fathered by adult men age 20 or older.[3] Additionally, the Alan Guttmacher Institute's 1994 report, "Sex and America's Teenagers," found that six of 10 girls who had sex before age 15 were coerced by males an average of six years their senior.[4] The Urban Institute cites a study showing that "three quarters of females who had sexual intercourse before age 14 reported having had sex involuntarily."[5]

At one time, the picture of teenage pregnancy did look vastly different than it does today. In 1970, seven of 10 teen births were within marriage. Today, the opposite is true -- **seven of 10 teen births are out-of-wedlock**[6] . . . and many are the results of statutory rape and victimization.

Not only is fatherlessness associated with child abuse, but abused children are also more vulnerable to further exploitation, particularly further sexual exploitation, "It shouldn't be hard to see 'why a child who's been molested since age 7 is acting out sexually at age 14.'" Indeed, research shows that teenage mothers whose babies were fathered by adult men are disproportionately the childhood victims of sexual assault by adult men.[15]

A 1992 Washington state study of 535 adolescent mothers found that 62 percent of the teenage mothers had had a history of rape or sexual molestation by men whose ages averaged 27 years.[16] This study found that, compared with non-abused mothers, abused adolescent mothers initiated sex earlier, had sex with much older partners, and engaged in riskier, more frequent, and promiscuous sex.[17]

**62 % of the teenage mothers had had a history of rape or sexual molestation by men whose ages averaged 27 years**

Fatherlessness, however, not only creates the environment for more vulnerable girls, it also helps create more predatory males. Research shows that boys who grow up without fathers are far more likely to engage in violent behavior and promiscuity than those who grow up in two-parent homes. **60 percent of America's rapists grew up in homes without fathers,**[19] fatherless boys exhibit greater aggressiveness or exaggerated masculine behavior, [20] and many predatory adult men may have originated from fatherless families in which they, too, were abused.

Laws against statutory rape were originally designed to protect adolescent girls -- typically aged 16 and under -- from sex under any circumstance, regardless of whether there was "consent." But during the sexual revolution of the 1960s and 1970s, states began to change their laws to reflect more permissive ci

First, the age of consent for sexual activity was lowered or altered. In two states, Hawaii and Pennsylvania, 14 years is the age of consent. Many other laws were changed to say that having sex with a young teenage girl was statutory rape, but sex with a girl in her mid-teens was only considered statutory rape if the male was three or four years older than she was. In other words, a 15-year-old girl could have sex with a 15-year-old boy, but not with a 19-year-old man.[30] **(See Kansas statutes.21-3501 thru 3516.)**

Second, lax law enforcement of statutory rape crimes have added fuel to the fire. Few courts have given priority to the prosecution of adults who have sex with minors, prosecutors citing girls often recant or refuse to testify against their adult "lovers," [34] and may also decline to name the father if they fear retaliation.[35]

Third, the law has not always upheld the rights of parents to protect their children's innocence. For example, the federal family planning program -- **Title X of the Public Health Service Act -- undermines parental authority in their children's reproductive health decision-making.** Title X is a categorical grant program which gives federal funds to family planning clinics all around the country. Title X clinics offer contraceptives, pelvic exams, pregnancy tests, screening for sexually-transmitted diseases, and sexual health counseling to minors without parental notification or consent.[37] However, even though the actual law specifies that family participation is to be encouraged, the federal policy guidelines state that clinics receiving Title X support must guarantee patient confidentiality, and this mandate that has been upheld by the courts.[38]

Furthermore, Title X clinics have no provisions regarding the reporting of suspected cases of statutory rape. In fact, these clinics may be indirectly aiding and abetting the problem in at least four ways: (1) the clinic does not involve parents, even in cases where the child is very young and is admittedly "sexually active," (2) the clinic's dispensation of contraceptives can mask a problem that might otherwise be brought to light, (3) clinics will see and treat "any woman, regardless of age," even when that "woman" is 11 or 12 years old,[39] and (4) **counselors are not trained to look for cases of statutory rape nor are they required to report any suspected cases of statutory rape to local law enforcement.**

The most direct way to address the problem of statutory rape is through the law enforcement system. Efforts must also be made to change the rhetoric and perception under which minors are viewed as mature decision-makers. For example, **adolescent girls who have been exploited by adult men are repeatedly referred to as "sexually-experienced women."**[44]

**The U.S. Dept. of Health is conducting an audit this year to see whether Title X family planning providers are obeying State laws requiring mandatory reporting of child molestation.**

The Alan Guttmacher Institute, Planned Parenthood, and other proponents of aggressive marketing of contraceptives and abortions to minor children have consistently refused to use language that reinforces the need for special protection for teenage girls and boys -- especially that provided by their families. The use of "women" in this context serves the purpose of fostering an egalitarian drive to repeal parental rights statutes, but masks the emotional and psychological immaturity that makes sexual activity at this stage of life especially risky.[45]

----------All footnotes available at *http://www.physiciansforlife.org/content/view/455/*

**UPDATE:** The U.S. Dept. of Health & Human Services (Report # 109-143) is concerned about reports that State Attorneys General in several States are requesting records to determine any role family planning providers may have had in failing to report criminal activity such as statutory rape. The appropriations bill has had a longstanding provision (sec. 212 of the fiscal year 2005 bill) and continues the provision in sec. 213 of the fiscal year 2006 bill making clear that **no family planning provider is exempt from any State law** requiring notification or reporting of child abuse, child molestation, sexual abuse, rape or incest. The Committee directs the Office of Population Affairs to send Title X grantees a reminder notification of this Federal requirement, and requests the Secretary to conduct an audit of a sample of Title X recipients to determine compliance with mandatory reporting requirements.

**Kansans for Life supports the Teen Protection Act to improve Kansas' abortion law.**

http://www.kansascity.com/mld/kansascity/news/opinion/14091221.htm
Special to The Kansas City Star,Tuesday, March 14, 2006

AS I SEE IT

# Protecting children from harm

By Phill Kline, Kansas Attorney General

The Center for Reproductive Rights has filed a federal lawsuit arguing that a child's constitutional right to privacy prevents the Kansas Legislature from requiring abortion clinics to report that a child has been raped.

Ellen Goodman recently opined that the lawsuit must be successful in striking down the Kansas law because such reports are counterproductive to healthy child development.

Goodman fails to understand the true nature of this lawsuit and the danger posed to children by adult sexual predatory behavior directed at children.

Kansas has, as do all states in the nation, statutory rape laws making it illegal to have intercourse with children. Although states have varying ages of consent, all states have such limitations.

In Kansas, sexual interaction with children is by law called "sexual abuse," and all medical professionals are required to report such abuse.

As attorney general I was asked whether abortion providers must report the rape of an underage child to state welfare officials when the child presents to receive an abortion. I concluded that since the rape of a child harms a child and is a felony crime in Kansas that the report must be issued.

Immediately abortion providers sued in federal court, contending that the constitutional informational privacy right of the child prevents state law from requiring such reports.

It is important to note that the abortion clinics are not arguing that state policy should change. They are attempting to compel the change they desire by arguing that the constitution prevents the state from acting to protect a 10-, 11-, 12-year-old child when such a child presents for an abortion.

This is a far-reaching constitutional argument that would effectively gut the ability of child welfare officials and law enforcement from acting to protect children and punishing those who engage in predatory activity.

This case is not about, as Goodman would contend, criminalizing necking in the back seat of a car. No one prosecutes truly voluntary activity between two teens or children of a similar age.

What does happen, however, is that while the 11-year-old is seeking an abortion, stating that she "necked" with her boyfriend, the 37-year-old abuser is out in the car, having told her that if she doesn't say that she won't be allowed to come home.

Abortion clinics do not have the resources, training or tools to determine the truth — child welfare officials do.

Perhaps unwittingly, all Goodman has done is participate in the fear tactics commonly employed by those who continually think that we must allow abortion on demand, even for children, at all costs, even at the cost of allowing a child to continue to live in an exploitive and harmful environment.

Children are never prosecuted for being a victim. I often, however, prosecute their rapists.

Since I have served as attorney general, my office has been involved with over 700 cases of adults sexually exploiting children. None of these cases involved "necking," and all involved those with power over children, exploiting the power, exploiting the child and often exploiting the silence of others who knew but did not have the moral fiber to speak.

## Predator's mom deceives clinic, procures secret abortion for teen

**April 15, 2005** Maria Vitale Gallagher- *http://www.lifenews.com/state995.html*
Granite City, IL (LifeNews.com) – A girl was reportedly **taken to the abortion facility by the mother of the man who allegedly impregnated the 14-year-old**, the Illinois Leader reported. The woman, **posing as the girl's grandmother,** had the girl called off from school. When the girl left the abortion facility after having an abortion, employees told her, "No one will ever know you were here, we'll bury your records."

The girl's parents found out she was not at school and rushed to the abortion clinic but the mother "was told I could not prove my daughter was there so I began calling her name." Authorities were called in and the mother was arrested after she continued to call out her daughter's name and cried out, "Don't do it." While the mother sat in the police car, the father of the baby and his mother who posed as the pregnant underage girl's grandmother (and phoned the high school to cover her absence from school) were sneaked out the back door by abortion employees. ----------

## Parents sue for teen's abortion; 'soccer coach' predator masqueraded as step-brother

**June 29, 2005** Kimball Perry, Cincinnati Post- *http://news.cincypost.com/apps/pbcs.dll/article?AID=/20050629/NEWS01/506290398*
Hamilton County Prosecutor Joe Deters, stopped by an uncertainty over Ohio law, has decided not to seek indictments against Planned Parenthood of Southwest Ohio for performing **an abortion on a 14-year-old girl without her parents' permission or consent.** "The way the law currently is in Ohio, it's easier to get an abortion than to buy a pack of cigarettes," Deters said.

The girl was **13** when she was **impregnated by her 21-year-old soccer coach,** who has since been imprisoned. Planned Parenthood never contacted the girl's parents, Deters said. Because the man told Planned Parenthood workers he was her stepbrother, the agency didn't contact her parents - even though she gave them her father's name and address, the suit noted.

The coach pleaded guilty last year to **seven counts of sexual battery** involving the girl and was sentenced to three years in prison. The girl's parents filed a civil suit, accusing Planned Parenthood of performing an abortion on the teen without notifying them or getting their consent. The suit claims their daughter "did not want to have an abortion." ----------

## Parents sue Planned Parenthood for ignoring age of teen

**Sept. 21, 2005** -Shannon Prather, St. Paul Pioneer Press- *http://www.twincities.com/mld/twincities/12698501.htm*
Anne Doe was three months shy of her 18th birthday when she walked into St. Paul's Planned Parenthood clinic and — unbeknownst to her parents — aborted her pregnancy. Although state law generally requires clinics to notify parents before performing abortions on minors, Planned Parenthood didn't do so in Anne's case. The clinic considered Anne an adult under the law because **she had previously had a baby**. But Anne's parents were upset to learn about the abortion after the fact. They sued Planned Parenthood for violating Minnesota's parental-notification law, seeking damages of more than $50,000.

Under Minnesota's notification law, first enacted in 1981 and upheld by the U.S. Supreme Court, "unemancipated" minors need to notify both parents 48 hours before receiving an abortion or get a judge's permission. According to the Does, their **daughter was financially dependent on them and still attending high school.** They say they were involved in all aspects of her life, even though the 17-year-old had moved into her own apartment three months before the abortion. "To the best of their knowledge**, this is the only medical, dental or mental health issue about which they were not informed.**" ----------

## School district settles lawsuit over secret abortion

**April, 2000** –Liz Townsend- *http://www.nrlc.org/news/2000/NRL04/pa.html*
Stephanie Carter's parents found out about her abortion only after finding soiled clothes and abortion pamphlets in her closet a few weeks later. "Our grandchild is gone forever, and our daughter will always live with this pain," said Howard and Marie Carter." The Carters' lawsuit alleged that their daughter Stephanie, then **17, got an abortion** at a New Jersey clinic in May 1998 at the **urging of guidance counselor** at Hatboro-Horsham High School and without parental consent.

The family also charged that the counselor used the school district's bank accounts to cash **checks from the baby's father to finance the abortion,** provided excuses so Stephanie could skip school, and drew her a map to the New Jersey clinic. The settlement obligates the school district to ban school personnel from encouraging, assisting, aiding, or abetting a student in obtaining an abortion, and from advising students to cross state lines to get around the parental consent laws. ----------

## Kansans for Life supports the TEEN PROTECTION ACT- HB 2792

FEDERAL AND STATE AFFAIRS
Date 3-15-06
Attachment 5

Kansas Occurrence Abortions to Women Under 18 by Residence State, 2003

| State | Age | | | | | | | Total |
|---|---|---|---|---|---|---|---|---|
| | 10 | 12 | 13 | 14 | 15 | 16 | 17 | |
| ARKANSAS | 0 | 0 | 0 | 1 | 0 | 1 | 1 | 3 |
| CALIFORNIA | 1 | 0 | 0 | 0 | 0 | 1 | 2 | 4 |
| COLORADO | 0 | 0 | 0 | 0 | 1 | 2 | 0 | 3 |
| CONNECTICUT | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 1 |
| FLORIDA | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 2 |
| GEORGIA | 0 | 0 | 0 | 0 | 1 | 0 | 2 | 3 |
| ILLINOIS | 0 | 0 | 0 | 0 | 4 | 3 | 3 | 10 |
| INDIANA | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| IOWA | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 2 |
| KANSAS | 0 | 1 | 9 | 23 | 56 | 139 | 171 | 399 |
| MARYLAND | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 1 |
| MASSACHUSETTS | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 2 |
| MICHIGAN | 0 | 0 | 0 | 0 | 1 | 0 | 2 | 3 |
| MINNESOTA | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 3 |
| MISSOURI | 0 | 0 | 8 | 26 | 58 | 94 | 133 | 319 |
| NEVADA | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| NEW JERSEY | 0 | 0 | 1 | 0 | 2 | 3 | 1 | 7 |
| NEW YORK | 0 | 0 | 0 | 3 | 1 | 5 | 3 | 12 |
| NORTH CAROLINA | 0 | 0 | 0 | 1 | 0 | 2 | 1 | 4 |
| NORTH DAKOTA | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| OHIO | 0 | 0 | 0 | 1 | 0 | 1 | 2 | 4 |
| OKLAHOMA | 0 | 0 | 0 | 2 | 3 | 8 | 11 | 24 |
| OREGON | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| PENNSYLVANIA | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| SOUTH CAROLINA | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| TEXAS | 0 | 0 | 1 | 0 | 2 | 0 | 2 | 5 |
| VIRGINIA | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| WEST VIRGINIA | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 1 |
| WISCONSIN | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 2 |
| CANADA | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 2 |
| Total | 1 | 1 | 19 | 57 | 134 | 265 | 346 | 823 |

Source: Kansas Department of Health and Environment
Division of Health - Center for Health and Environment Statistics

FEDERAL AND STATE AFFAIRS
Date 3-15-06
Attachment 6

# IS THIS WHAT LEGISLATORS INTENDED FOR JUDICIAL BYPASS?

http://web.archive.org/web/20030621112656/www.aidforwomen.com/afw.htm

**The following copy is taken directly from website of AID FOR WOMEN CLINIC Kansas City/ Wichita**

As regards legal formalities for abortions, there are forms we need to get to you at least 24 hours prior to your abortion appointment. If you do not have them when you walk in the door we will have to re-schedule you. **You can thank the 'prolifers' for that. Let them know what you think of them next time you see them protesting outside a clinic or hear their self-righteous words in a conversation.** The items you will need are the 24-hour form (as we call it) and access to ("...provide you with...") copies of "If You Are Pregnant", a lovely little 21-page booklet filled with color glossy pictures of *in utero* pregnancies at 2 week increments from start to finish, AND a 64-page directory of abortion alternatives called "If You Are Pregnant: Directory of Available Services". The **'prolifers' forced the Kansas Department of Health and Enviroment (KDHE) to publish and distribute these booklets** (at taxpayer expense), and we the provider were expected to absorb the cost of mailing this heavy literature (a half pound!). **You can view our scanned-in copy of "If You Are Pregnant" and still meet the legal intent of the law (in my opinion the intent is to get you to change your mind about having an abortion)** (a.k.a. "Women's Right To Know" Act of July 1st, 1997). Also, copies of the "If You Are Pregnant" and "If You Are Pregnant: Directory of Available Services" booklets are in all Kansas public libraries. Look in the 'vertical files' when you are at the libraries. The booklet and directory are also available by calling 1-888-744-4825 and **requesting copies from the KDHE (it may take up to two weeks since it is sent via U.S Postal Service as Fourth Class mail).** We can also fascimile (fax) everything except the booklet and directory. If we faxed the 24-hour form, you are responsible for locating a library copy of "If You Are Pregnant", and "If You Are Pregnant: A Directory of Available Services". WHEN YOU GET HERE you will sign a State-required form ("Certificate of Informed Consent - Abortion") stating that you have received a copy of that literature. Printing a copy of "If You Are Pregnant" and "If You Are Pregnant: A Directory of Available Services" from this website constitutes overt compliance, though not necessary. ;) And you can do a search to see **what new stupid laws the pro-Lifers are trying to get made into law.** For the current Legislative session, do a search for current legal harassment can be found with keywords 'abortion', 'fetal','pregnancy', 'Right-To-Life'at Kansas anti-choice bills in Legislature or do a search of all the Kansas Statutes.

**If you are a minor** (less than 17 years old, unemancipated), there are the steps needing to be taken: Unemancipated Minor. We are legally required to inform your parents. This can be one of three ways. The first, most direct and quick way is for you to tell your parent(s) or guardian about this and get them to sign a **notarized Parental Notification form** acknowleging that you might get an abortion. They obviously will know about the abortion then. This is not always the end-of-the-world; your parent's can understand. You would be surprised at how many mom's have had an abortion. Remember, your parents have had sex before you were born, and yes, they may have had sex before they met your other parent. Abortions have been legal Federally since 1973, and in some states, like Kansas, since 1970. Parent's just don't talk about such things because its taboo (fault of the ProLifers' propaganda machine). Give your parents a chance, but if not, try the other options. The second way is for us to send a certified letter addressed to your parent(s). They will receive this letter from us. Once they accept the letter, the postman sends the green certified-return-receipt form back to us and that is our proof that your parents have been notified. Your parent will not know what the letter is when they sign for it. This is the Surprise-Package variety, also-known-as **Certified Letter of Parental Notification.** When they accept the letter, whether they agree or not with abortion, they have met the legal criteria of Notification, and you can get an abortion. Your parents will obviously know about the abortion. This option is good if you don't care if your parents know, yet you know they won't sign the notarized Parental Notification form

.

Or, thirdly, we can do a **Judicial Bypass/Waiver** to Parental Notification. **This is an option when you do not wish to tell your parent or guardian about the abortion.** This is an option that many minors choose because of real fears of violent physical punishment, being disowned by the family, boyfriend getting physically hurt by parents, you do not live with your parents and do not wish to involve them, or other reasons. A **Judicial Bypass does not cost you any extra money. Kansas taxpayers pay for your attorney.** The abortion will still cost you. The Courts have 48 hours to get you processed once their paperwork is started. Step one consists of getting a sonogram and (statutory) minor counseling. Next we give you a copy of your counseling sheet, the court forms that pay for the attorney, phone number of your attorney, and directions to the courthouse. Your attorney will set up the appointment with the administrative judge who deals with minors and family matters for sometime in the next couple of days. **The judge will ask questions** to ascertain your level of responsibility and maturity with respect to getting an abortion. **Don't worry about it, be confident and polite. The judge is kind and benevolent. You don't need to lie to the judge. The judge will grant your Waiver as long as he does hear any frivolous silly answers**. We need to have a copy of that Waiver to do your abortion. Getting out of school to come here for the counseling, or for the court date, is your responsibility.

FEDERAL AND STATE AFFAIRS
Date 3-15-06
Attachment 7

E

Rev. Thom Belote
Opponent – HB 2792
Wednesday, March 15, 2006
Federal and State Affairs
Chairman John Edmonds

Good afternoon. My name is Thom Belote and I come before this committee as a minister and a person of faith. I would like to take this opportunity to oppose HB 2792 in favor of a bill that would better address the concerns raised by its supporters.

This morning, the State Board of Education voted to institute an opt-in requirement for sex ed classes, a decision that will surely allow the very students who need the information provided by such courses the most to slip through the cracks. It is therefore incumbent upon the legislature to act without delay in passing the Abstinence Plus Education Act, which will provide Kansas Students with medically accurate, age appropriate information about sexual health.

Unfortunately, Committee Chairman John Edmonds has informed a representative from our group that his schedule is simply, in his own words, "too busy" to discuss the Abstinence Plus Act this year. However, the committee has made time for HB 2792, a political bill that jeopardizes teen safety. I urge the members of this committee to reconsider your priorities.

Many wise people before me have said, "an ounce of prevention is worth a pound of cure." Ladies and gentlemen of the committee, you have a bill in your hands that would allow you to continue to build upon the great success we've made in Kansas to reduce the teen pregnancy rate by 20 percent. You have a bill in your hands that would ensure that our young people have the information they need to protect themselves from unintended pregnancies—information that could prevent them from facing an abortion decision in the first place.

The best way to decrease the number of abortions in this state is to decrease the number of unintended pregnancies; and the best way to decrease the number of unintended pregnancies is to arm our sons and daughters with the knowledge they need to protect themselves. I therefore implore the legislature to pass the Abstinence Plus Education Act. Unlike the bill at issue today, the Abstinence Plus Education Act is an honest attempt to safeguard the health and wellbeing of our children, not a politically motivated piece of legislation masquerading as an attempt to protect our youth. I urge you to do what is right for the children of Kansas. I urge you to schedule a hearing and an up or down vote on the Abstinence Plus Education Act.

On behalf of parents, teachers, clergy, students, health professionals and more than 5000 Kansans who have declared their support of A+, I thank you for your attention to this matter and hope you will do the right thing to reflect the values and priorities of Kansans, not special interest groups.

Testimony in opposition to HB 2792
Chimene Schwach
March 15, 2006
Federal and State Affairs Committee

As a licensed substance abuse counselor specializing in adolescents who has been practicing in the Kansas City metropolitan area for over 6 years, I am here today to oppose HB 2792.

Countless times in my career I have counseled families where teens can't communicate with their parents. And through these experiences, it is clear to me that it is not possible to legislate family communication.

While most parents care deeply about their children and work hard to create a supportive home environment, there are some teenagers, the ones who are most vulnerable, who live in seriously troubled or abusive homes. I fear that these teens will be at risk if this law passes. Many of them have found their way to my practice. Clearly, they do not need more courtrooms. They need a counselor and safe, confidential help.

What does this new law say about those teenagers? That's the real problem with House Bill 2792. This new law puts those vulnerable teenagers—those who need the most protection—in harm's way, or forces them to go through at least one, and maybe two court proceedings.

Making them find their way through the judicial system and forcing them to jump through the hoops of possibly mulitiple bypasses through the system could make scared, pregnant teens, who cannot or will not go to their parents, do desperate things. Adolescents are in a stage of development that pushes against the bounds of authority - be it parental or judicial. Rather than tell their parents or instead of going to a doctor to get the confidential medical help they need. In desperation, teenagers will turn to their friends, or worse for assistance, leading to unsafe self-induced attempts to "fox the problem" or illegal back-alley abortions; many will suffer serious injuries and some will die.

That is the serious, real scenario if this initiative passes.

As a mental health practitioner I have devoted my professional life to helping teens and their families. When teens are in trouble they need someone like me. What they don't need is a new law that may force them into harm's way.

I urge you to oppose HB 2792. Thank you.

Testimony Submitted in Opposition to HB 2792
Pam Ippel
March 15, 2006
Committee on Federal and State Affairs

My name is Pam Ippel. I am a parent and I strongly oppose House Bill 2792.

As a parent, you and I know that what we care **most about** is keeping our children safe. That means *always* safe, even if they feel they can't come to us and tell us everything.

When our children are young, keeping them safe literally means never taking our eyes off them. As infants and then toddlers we watch their every move, their every step. But as they grow up it is not possible to be watching them every minute. That's why good family communication is so important.

But real family communication must begin long before they become teenagers and certainly long before a teen faces an unplanned pregnancy. The best way to protect our daughters is to begin talking about responsible, appropriate sexual behavior from the time they are young, fostering an atmosphere assuring that they can come to us.

But I'm a realist. I hope and believe my daughter would come to me with such an important issue. We've certainly tried to create a family where "love" means being able to help and support each other -- no matter what the situation. But I know that even teenagers who have good relationships with their parents may be afraid to talk to them about something as sensitive as pregnancy. And should that be the case, I would want my children to talk with another trusted adult and still be able to access the care they need.

Kansas already has a mandatory notification law that applies to all teens. The proposed legislation sets up another unnecessary hurdle in teens' paths, but it will not make for good communication where it does not already exist.

How will out-of-state teens navigate this system requiring multiple judicial bypasses? Ideally we would all want our teenagers to discuss this important issue with us, but I would hope we'd all agree that their safety is paramount. I fear that the specter of these hurdles may drive teens away from the adults in their lives and cause them to take matters into their own hands.

The real answer to teen pregnancy is prevention and strong, caring families—not new laws that endanger our, or other families' daughters. The teen pregnancy rate in Kansas has declined 20 percent since the State Board of Education passed a requirement for comprehensive sex education in public schools. That's because parents, teachers and counselors are teaching teenagers about responsibility, abstinence and ways to prevent unintended pregnancies and diseases.

Talking to our daughters when they are young and fostering a place where they can freely communicate is the best solution.

But if—for whatever reason—our daughters can't or they won't come to us, we must make sure they get safe, professional medical attention and quality counseling from caring doctors and nurses.

It's a difficult issue. It's a hard question to face. It may make you, and me, as a parent, uncomfortable. Because, of course, as parents, we do want to know when our daughters face a decision like this so we can be helpful and supportive.
But also, as parents, our daughters' safety should be more important than our desire be informed.

Please vote no on House Bill 2792. In this case, their safety

FEDERAL AND STATE AFFAIRS
Date 3-15-06
Attachment 10

Rep. John Edmonds
House Federal and State Affairs Committee
300 SW 10th Avenue, Room #143N
Topeka, Kansas 66612-1504

Dear Rep. Edmonds,

I oppose the amendments to the judicial bypass statute contained in House Bill 2792. I appreciate the opportunity to urge the committee to vote against these changes.

In the way of background, I am a recent graduate of the University of Kansas Law School. I do not come before you in any official capacity, but merely as a private citizen and taxpayer with some knowledge of the law. I come before you because I believe that the amendments contained in this bill will create a legal morass which will suck money from the coffers of the State and embroil it in needless litigation for the foreseeable future. I shall address my primary concerns below:

**REQUIREMENT OF MINOR TO PRODUCE IDENTIFICATION**

Lines 21-25 of HB 2792 require a minor to produce valid identification and verification of the minor's state of residence. There are three fundamental problems with this requirement. The first is that the section is vague as to what constitutes a valid identification. Does this mean state-issued identification? Or a driver's license? Or a school identification card? I cannot answer that question. You cannot answer that question. The bill does not answer that question. And yet the bill would require that a doctor answer that question or break the law.

The second problem is, regardless of what a "valid ID" is, many minors do not carry identification. Most minors only acquire identification once they are old enough to drive, because they are not required to do so by law before then. What this bill would then do is create a *de facto* ban on any minor without a valid identification from receiving an abortion. Such a ban would serve no other purpose except to impose significant if not insurmountable obstacles between young women and their doctors.

The third problem with the identification clause is that it imposes an additional requirement on minors. Not only are they required to produce valid identification, whatever that means, but they must also provide verification of their state of residence. What form must this verification take? Again, I cannot answer that question. You cannot answer that question. The bill does not answer that question. But again, the bill would require that a doctor answer that question or break the law.

**STRICTER THAN KANSAS**

As deficient as lines 21-25 are, lines 40-43 are a legal landmine. These lines require that, when a minor's state of residence is not Kansas, the doctor must obey the legal parental notification requirements of the minor's state of residence when they are

stricter than Kansas'. There are five main areas in which this requirement is legally unmanageable and unduly burdensome. The first is the determination of the minor's state of residence. What if a minor produces a Minnesota driver's license but states that she now lives in Topeka? Or, what if the minor currently resides in Kansas but is about to begin college in Utah, has rented an apartment there, and plans to stay in Utah permanently? Legally, this young woman would be a resident of the state of Utah, yet she currently resides in Kansas. And residency requirements can be tricky. You can be a resident of Kansas, vote in Kansas, pay taxes in Kansas, and yet still pay out-of-state tuition at a Kansas university. The bottom line is that state residency is a tricky subject that has involved a lot of litigation and normally involves a court making a final determination. Yet, this bill would require a doctor to make an on-the-spot determination and if they are wrong, they have broken the law.

The second problem with this section of the bill is that the legislative intent is unclear. Line 41 refers to the "legal parental notification statutes" of the minor's state. Does this exclude those states which have parental consent statutes? A lawyer could (and, I assume, will at some point) argue that the Kansas Legislature could have included "legal parental notification and consent statutes" if it wanted to, but it chose not to do so. Therefore, the doctor is only required to apply laws of states that have "stricter" parental notification laws. Assuming that the meaning of stricter, at the very least, means both parents have to be notified, that leaves us with only three states: Colorado, Utah and Minnesota. However, even with one of these states, we have a problem.

Colorado requires that both parents be notified before a minor may receive an abortion. However, it also allows a grandparent, aunt or uncle to be notified in place of a parent. Kansas requires that only one parent be notified, but does not allow a grandparent, aunt, or uncle to be notified in place of a parent. Which of these laws is stricter? I cannot answer that. You cannot answer that. The bill does not answer that. Yet, the bill would require a doctor to answer that question or break the law.

The third problem with this section of the bill lies is similar to the second, but concerns parental consent laws. Let us assume that the intent of this bill is not only to enforce other state's parental notification laws, but also their parental consent laws. Let us also assume that parental consent is considered stricter than parental notification. This all seems fine, until we start to look at specific states. For example, take Wisconsin. Wisconsin requires that both parents consent, but allows a grandparent, aunt, uncle or sibling give consent in lieu of the parents. Kansas only requires notification, not consent, but does not allow a grandparent, aunt, uncle or sibling give consent in lieu of the parents. Which law is stricter? I cannot answer that question. You cannot answer that question. The bill does not answer that question. Yet, doctors are required to answer that question or break the law.

The fourth problem concerns the second and third problem. What if a state has a parental notification or consent law on its books, but that is currently enjoined from being enforced by a court order? For instance, Idaho currently has a law which requires one parent's consent, but that law is the subject of an injunction and cannot be enforced. Must a Kansas doctor still follow the Idaho requirement even if it cannot be enforced? Does it matter if the injunction is based on the state constitution, such as in Alaska, or on the federal constitution, such as Illinois? There is absolutely no

provision for this event in the bill. I cannot answer this question. You cannot answer this question. The bill cannot answer this question. Yet, doctors must answer this question or break the law.

The fifth, and perhaps most important flaw in this section, is that it is discriminatory. The United States Supreme Court has long held that a state, once having granted a right to its own residents, cannot deprive non-residents of that right. Yet, this is exactly what this section of the bill would do. By its very language, it would impose "stricter" requirements on a non-resident minor's right to an abortion than those imposed on a resident minor. The law is discriminatory on its face and is therefore very unlikely to survive a constitutional challenge.

**PARENTAL CIVIL CAUSE OF ACTION**

Another troubling aspect of this bill is contained in lines 37 – 39. This section of the bill allows parents to pursue civil remedies against individuals, specifically abortion providers, who undermine parental involvement and violate the minor's legal rights. This section is hopelessly vague. First, it does not spell out what kind of "civil remedies" are available to the parents. For instance, if a doctor does not believe that another state's requirements apply to one of his or her patients, can a parent who disagrees sue for wrongful death? Fraud? Lack of informed consent? Malpractice? There is absolutely no direction given to potential plaintiffs or defendants upon what, if any basis, legal liability exists. Nor does the section spell out the minimum or maximum penalties. Can a parent sue to get an injunction that would stop a provider from performing an abortion? I cannot answer these questions. You cannot answer these questions. The bill does not answer these questions. Yet, this bill would require doctors to answer these questions in order to make a decision as to whether they wish to take on the risk of providing a young woman with her constitutionally protected right to an abortion.

**CONCLUSION**

While I may be the first person to ask these questions about the bill, I most certainly will not be the last. All of these questions, and more, must be answered before this bill could even hope to be workable law. The purpose of our system of laws is to attempt offer clear guidance and predictable outcomes in order to allow others to appropriately plan future conduct. This law does neither. Instead, this law is the equivalent of the giant shark in the movie *Jaws*. No one knows where, when, or under what conditions it will strike, but everyone knows that when its strike will be devastating. Just like that shark kept everyone out of the water, this law will terrify doctors out of providing minors their constitutionally protected right to an abortion. And that is exactly the intent of this bill.

Abortion is a very divisive issue in this state. Both sides of the argument are passionate in their convictions and truly believe that they are doing the right thing. By speaking here today, I do not mean to disparage any of the countless Kansans who believe that abortion

is wrong. Nor do I mean to lecture them regarding the sanctity of their beliefs. I have nothing but respect for people who oppose abortion and go about legal, non-threatening means in order to achieve their ends. However, this bill does not fit into that category. This bill is a blatant attempt to threaten abortion providers into closing their practices or else face the onslaught of unpredictable and unending litigation. Moreover, it does so in such a way which virtually guarantees that the State will have to spend countless hours and vast sums of money defending that which will most certainly found to be illegal. And at the end of that litigation, the State of Kansas will be that much poorer, that much more divided, and that much more bereft of serious solutions to the State's problems.

Or you could just vote against this bill.

Thank you for the opportunity to address you here today.

Sincerely,

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Branden Bell

Testimony in Opposition to HB 2792
Irene Bettinger MD
Wednesday, March 15, 2006

TO: Kansas House Committee Members for HB 2792

I regret, as a Kansas resident and actively practicing physician, that I am unable to attend this hearing in person today. But I must remain available to our hospital emergencies today.

I have been practicing medicine for over 39 years now, including 33 years in this area. Through my training years and many years in private practice of neurology, I have had extensive exposure to and contact with young children and teens. As I have followed the current development of House Bill 2792, I decided I must join with the American Academy of Pediatrics as well the American Academy of Family Physicians, in opposing the type of regulations and the intent of this HB 2792. For this bill will not offer protection to these young women. Rather it will put these women – our own daughters – at great risk.

I believe that most parents want and hope for the best for their daughters. But such regulations as proposed in HB 2792 will not give meaningful protection for their health or for unplanned pregnancies. This can come only from prevention of pregnancies -- through education, family conversations, support from strong friends, as well as from parents and siblings.

Unfortunately my practice is replete with one case after another of estranged family members, abusive homes, sexual abuse from the actual family members who are thought to be "supporting and loving", and the need for the teen daughters to find other escapes. To provide safety to these young girls, we must provide supportive care, with the help of trained medical nurses and doctors as well as counselors. The force of laws such as offered in HB 2792 push away the very safety net that is needed for these pregnant and anxious teenagers, who already are pushed to their limits. Being forced to appear twice in different courts, before two judges who have no grasp of the tensions and fears the teen may be living with, is one of the most destructive situations that our society could present to them. Experience has shown that such legal settings and requirements force the young teens away from rational, safe and supportive medical help, and into dangerous alternatives through their "networks".

Lastly, this HB 2792 places an impossible bureaucratic burden on physicians who cannot know or follow laws of other states in which they do not practice. I respect the need to be informed on our own pertinent state laws and to follow them. But the requirements of this HB 2792 will do NOTHING to protect the good health and safety of our teen age patients who are dealing with pregnancy.

As one who has spent her professional medical life working to ensure we provide the best and safest medical care we can offer, I must urge you to vote NO on House Bill 2792. Indeed it could actually jeopardize teen health and safety.

Thank you for your time.

Irene Bettinger MD
Diplomat, American Board of Psychiatry and Neurology

FEDERAL AND STATE AFFAIRS
Date 3-15-06
Attachment 12