Approved: February 22, 2006
Date

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Chairman James Barnett at 1:30 P.M. on February 15, 2006 in Room 231-N of the Capitol.

All members were present.

Late Arrivals:

Wagle	1:39
Haley	1:40
Palmer	1:42
Brungardt	1:45
Journey	1:53

Committee staff present:

Emalene Correll, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Norm Furse, Office of Revisor of Statutes
Diana Lee, Office of Revisosr of Statutes
Morgan Dreyer, Committee Secretary

Conferees appearing before the committee:

Kathy Ostrowski, Kansans For Life
Julie Burkhart, ProKanDo
Dr. Lorne Phillips, Kansas Department Health and Environment
Brett Shirk, American Civil Liberties Union

Others attending:

See attached list.

Upon calling the meeting to order, Chairman Barnett asked for Norm Furse to give a brief reading and to explain the language on **SB 528, and SB529.** The chair announced the next order of business would be a hearing on **SB 528.**

Hearing on SB 528–An act concerning public health; relating to the reporting of statistical data regarding termination of pregnancies.

Chairman Barnett called upon proponent conferee, Kathy Ostrowski, Kansans For Life, who stated SB-528 would alter the report to explain the reason for late-term abortions in the same manner as listed for partial birth abortions, and would enlarge the information made available in the annual summary of abortion statistics. She included abortion statute-K.S.A. 65-6703, statistic charts on abortion, and research on Down syndrome abortions. A copy of his testimony is (Attachment 1) attached hereto and incorporated into the Minutes as referenced.

Next Chairman Barnett called upon opponent conferee, Julie Burkhart, Chair of ProKanDO, stated that SB 528 is unnecessary to track abortions performed in Kansas or to properly keep track of medical statistics, and invades the privacy of patients and physicians, even without requiring that their identities be divulged. A copy of his testimony is (Attachment 2) attached hereto and incorporated into the Minutes as referenced.

The Chairman Barnett asked for questions or comments from the Committee. Questions came from Senator Barnett, regarding the question of no abortions on a healthy fetus, and to better understand the intent of the language in the bill.

The first neutral conferee, Dr. Lorne A. Phillips, Ph.D., State Registrar and Director, Center for Health and Environmental Statistics Division of Health, Kansas Department of Health and Environment, stated the bill would establish incompatible concepts in reporting vital events. He included a sample contract for a Report of Induced Termination of Pregnancy. A copy of his testimony is (Attachment 3) attached hereto and incorporated into the Minutes as referenced.

MINUTES OF THE Senate Public Health and Welfare Committee at 1:30 P.M. on February 15, 2006 in Room 231-N of the Capitol.

The Chairman Barnett asked for questions or comments from the Committee. Questions came from Senators Brungardt, Haley, Gilstrap, Palmer, Journey, and Wagle , regarding disability status, patient reports, ADA Disabilities association, what is considered a disability, possibility for attending physician to know entire disabilities list, and how are the patient and physicians names recorded and the ability to locate those.

The next neutral conferee, Brett Shirk , American Civil Liberties Union, stated the ACLU opinion that the wording "detailed reasons for late-term termination of pregnancy" is unconstitutionally vague. A copy of his testimony is (Attachment 4) attached hereto and incorporated into the Minutes as referenced.

The Chairman Barnett asked for questions or comments from the Committee. Questions came from Senators Haley, and Gilstrap, regarding the definition of late term abortion, asking research to clarify and work the language of **SB 528.**

With no more conferees' to give testimony and no further questions or comments from the Committee, Chairman Barnett then closed the hearing on **SB 528.**

Chairman Barnett then opened the hearing on **SB 529.**

Hearing on SB 529–An act concerning abortion

Chairman Barnett called upon proponent conferee, Kathy Ostrowski, Kansans For Life, who stated that the bill would partner with the federal law that babies born alive during abortion be treated as a member of the human family and receive the full protection of the law, and the need to require reporting information of any such born-alive events. A copy of his testimony is (Attachment 5) attached hereto and incorporated into the Minutes as referenced.

The next conferee was opponent, Dr. Lorne Phillips, Ph.D., State Registrar and Director, Center for Health and Environmental Statistics Division of Health, Kansas Department of Health and Environment, stated Kansas law of abortions, birth certificates even if abortion takes place, and language to show abortion took place on birth certificate. He included a sample contract for a Report of Induced Termination of Pregnancy. A copy of his testimony is (Attachment 6) attached hereto and incorporated into the Minutes as referenced.

The Chairman Barnett asked for questions or comments from the Committee. Questions came from Senators Gilstrap, Palmer, and Journey, regarding the number of deaths and irrelevant impairment bodily functions, referral relation to patient and physician, collection of contact information, and mission of KDHE.

Chairman Barnett announced that written testimony was offered from Mike Farmer, Executive Director, Kansas Catholic Conference. Copies of their testimonies are (Attachment 7) attached hereto and incorporated into the Minutes as referenced.

With no other questions or comments from the Committee, the Chair closed the hearing on **SB 529**.

Chairman Barnett announced that the final item on the agenda was for the minutes to be approved for Public Health and Welfare Committee on January 26, 2006, and February 1, 2006.

The motion was made by Senator Palmer approve the minutes for January 26, 2006, and February 1, 2006. It was seconded by Senator Journey and the motion carried.

Senator Haley spoke to hold the Committee for discussion, stating that there was an issue regarding the minutes as to what has occurred, especially on February 1, which is the second of the two. He did not have the opportunity, and neither had others to review some of the information regarding the tape recording. I was asked to take to question the two different minutes, that on January 26, and February 1, and to have a later discussion on the minutes of February 1. He would offer as the substitute motion that

the Committee approve the minutes of January 26, 2006, and Hold the minutes of February 1, 2006 pending further review.

Chairman Barnett offers discussion on this, as well as Haley. The Chair stated that Senator Haley does not believe that the bills that were heard today, February 15, 2006,were introduced. Senator Jordan introduced SB 528, SB 529, and SB 530, and does recall that there were seconded by Senator Palmer. He had checked with legislative staff and they have documented on their notes that the bills were introduced appropriately. Notes had been taken of the time of the arrival of the members of the Committee. Committee started on February 1, at 1:35 p.m., there were several late comers which had been seen today, everyone understands that. But, Senator Haley came after the bills were introduced. He is sure that Haley did not hear the bill introduction and feels that this should not delay this normal and formal process.

Senator Haley stated, that some of the member of the Committee who were present, who also arrived late to February 1 meeting, also have a similar question, on both parties and both sides of the issue. He states that it is not his own question, but that the question came to him since he had missed that fifteen minutes. That being the case, he does not question that the tapes will prove this matter or the Chair's judgement at all. He normally and routinely and many of us approve, as a matter of procedure our minutes, this is one that has been a question that has arisen by those who were here and those who were not, he hopes that we could just settle this at the next meeting.

The Chair recognizes Senator Wagle, states if there is no second to Senator Haley's substitute motion, she would like to second Senator's Palmers motion that the Committee adopt the Committee minutes.

The Chair recognizes Senator Brungardt, who asked for clarification on the substitute motion.

Senator Haley stated the Committee pass out the minutes of January 26 as presented, and that we table until a later meeting the minutes of February 1. I have no problem with the minutes of January 26, and probably will have no problem the minutes of February 1.

The Chair asked if there was any other discussion.

Senator Brungardt stated that he does not argue with his late arrival or the formality.

Chairman Barnett states that for failure of a second the Committee will be back to the original motion, and the motion passed (8-1). Senator Haley voted no.

Adjournment

As there was no further business, the meeting was adjourned at 2:30 p.m.

The next meeting is scheduled for Thursday, February 16, 2006.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

GUEST LIST

DATE: 2/15/06

NAME	REPRESENTING
Shanna Meyer	University of Kansas Social Welfare
LYDIA KREBS	PPKM
Daphne Brown	KASSW
Samantha Studevant	Washburn MSW program
Sarah Simmons	Washburn MSW program
Amy Sleeman	Washburn MSW program
Brianna Fritz	Washburn MSW program
Michel Bonham	Washburn MSW program
Rebecca Burns	KNASW / Washburn MSW
Monique Ball	Washburn MSW program
Sarah Moline	Park University
Nicole Stafford	Park University
Megan Fox	KU BSW program
emmi adler	KU BSW program
Mandy Book	KU BSW program
Jennifer Ewan	Pittsburg State BSW Program
Jamie Tyler	Pittsburg State BSW program
Heather Fosberg	Washburn MSW Program
Polly Johnson	Washburn MSW Program

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

GUEST LIST

DATE: 2/15/06

NAME	REPRESENTING
Rose Reynolds-Cox	Washburn MSW Program
Cpt. Layton Krantz	University of Missouri-K.C.
Jason Newkirk	UMKC
Tammy Payne	WU MSW
Kristen Paulson	Washburn University-MSW
Ross McCoy	Park University
GARY BACHMAN	PARK UNIVERSITY
LORNA A. PHILLIPS	KDHE
GREG CRAWFORD	KDHE
Kathy Ostrowski	KFC
Jana Mackey	KS WOW!
Brett Shirk	ACLU
[signature]	PKD

Kansans for Life

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

Legislative Office
929-A So. Kansas Ave.
Topeka, KS 66612
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K.C. Regional C
7808 Foster
Overland Park, KS 66204
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Proponent SB 528

Feb. 15, 2006
Senate Committee on Public Health and Welfare
Chairman James Barnett, M.D.

Good afternoon Chairman Barnett and members of this Committee. I am Kathy Ostrowski, legislative director of Kansans for Life, here to support SB 528, which would improve abortion statistical reporting. SB 528 would amend 65-445, derived from abortion reporting requirements at 65-6703.

1. SB 528 would alter the report to explain the reason for late-term abortions in the same manner as listed for partial birth abortions. Specifically, question 18a asks whether the impairment was mental or physical and 15a does not, but it should.
Since the late term law was enacted, partial-birth abortions were only claimed to have been done during 1998/99 during a legal dispute about how the law would cover "health" exceptions. Every year since then, there are (see attached selections from KDHE annual reports)

- no partial-birth abortions reported,
- no late term abortions done for an emergency, and
- no late term abortions done to save the life of the mother.

The only interpretation possible is that the viable babies were terminated because the "mental health" of the mother would be permanently impaired by giving birth. Thus, breaking out question 15a into mental or physical will clarify what's happening.

Kansas law supposedly does not allow abortions for viable babies because they are diagnosed as having disabilities. Late term viable abortions are allowed to prevent death or permanent bodily damage. Why then do we read in the Los Angeles Times (May 31,2005) that late term pregnancies are ended at George Tiller's for reasons of Down syndrome? (see attachment) If giving birth to a Down syndrome child were to cause permanent mental damage, it is instructive to read in the LA Times that women who aborted are not relieved of mental suffering.

> *Susan Crocker, a 34-year-old customer service manager had a second-trimester Tiller abortion in August, for Down syndrome. Crocker, who lives in Texas, has struggled with doubt and depression. "I did the unthinkable," she said. "I ended my baby's life. Sometimes I think, oh God, what if I was wrong?"*
>
> *In March 2001, a week into her third trimester, Katie Plazio,43, a financial analyst from New Jersey, and her husband flew to Tiller's clinic. Genetic tests had determined that their son had Down syndrome. The abortion she sought to preserve her mental health has left her deeply shaken; doctors say she suffers from post-traumatic stress syndrome. Since her abortion, Plazio has suffered such severe panic attacks that she can't drive even as far as the high school to watch her daughter cheerlead. She has gained 60 pounds as she battles depression*

Senate Public Health & Welfare Committee
Date Feb. 15, 2006
attachment #1

2. SB 528 should disclose specifics of fetal anomalies, including, but not limited to, diagnoses of Down syndrome (trisomy 21) and other disabilities that were made about the fetus.
See attachment, revealing that up to 90% of Down syndrome diagnosed babies in utero are aborted. A study published in the March issue of the American Journal of Obstetrics and Gynecology shows that many pregnant women receive only negative information from medical professionals when a prenatal diagnosis reveals a potential for giving birth to a baby with Down syndrome.

3. SB 528 should disclose the disability status, if any, of the pregnant female.
Kansas law does not specify how informed consent is adapted for a mentally disabled adult or teen, and we have no statistics of how often such females are aborted in Kansas. Obviously, the ability to consent to sex for an unmarried disabled female often, if not always carries a criminal element.

We know that a prolonged Texas grand jury is still investigating the criminality of the pregnancy of a 19 year old with Down syndrome who died after her late-term Tiller abortion Jan. 13, 2005. (The autopsy indicated that she was very healthy prior to the abortion.)

4. SB 528 should breakout the number of aborted teens from other states, in addition to the breakout done for teens in Kansas counties. KDHE currently lists how many total Missouri females were aborted in Kansas but not how many of those were teens. Kansas' parental notice may well be attracting Missouri teens because our abortion requirement for one-parent notice is "easier" than Missouri's parental consent requirement.

Missouri enacted a law in 2005 to prosecute those who would bring a teen out of state to circumvent state parental requirements. A bill at the federal level prohibiting such practices was passed by the U.S. House and awaits U.S. Senate action

5. SB 528 will enlarge the information made available in the annual summary of abortion statistics.

Thank you for your consideration.

Abortion Statute –K.S.A. 65-6703

1 (b) (1) Except in the case of a medical emergency, prior to performing an abortion upon a woman, the physician shall determine the gestational age of the fetus according to accepted obstetrical and neonatal practice and standards applied by physicians in the same or similar circumstances. If the physician determines the gestational age is less than 22 weeks, the physician shall document as part of the medical records of the woman the basis for the determination.

(2) If the physician determines the gestational age of the fetus is 22 or more weeks, prior to performing an abortion upon the woman the physician shall determine if the fetus is viable by using and exercising that degree of care, skill and proficiency commonly exercised by the ordinary skillful, careful and prudent physician in the same or similar circumstances. In making this determination of viability, the physician shall perform or cause to be performed such medical examinations and tests as are necessary to make a finding of the gestational age of the fetus and shall enter such findings and determinations of viability in the medical record of the woman.

(3) If the physician determines the gestational age of a fetus is 22 or more weeks, and determines that the fetus is not viable and performs an abortion on the woman, the physician shall report such determinations and the reasons for such determinations in writing to the medical care facility in which the abortion is performed for inclusion in the report of the medical care facility to the secretary of health and environment under K.S.A. 65-445 and amendments thereto or if the abortion is not performed in a medical care facility, the physician shall report such determinations and the reasons for such determinations in writing to the secretary of health and environment as part of the written report made by the physician to the secretary of health and environment under K.S.A. 65-445 and amendments thereto.

(4) If the physician who is to perform the abortion determines the gestational age of a fetus is 22 or more weeks, and determines that the fetus is viable, both physicians under subsection (a) determine in accordance with the provisions of subsection (a) **that an abortion is necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman** and the physician performs an abortion on the woman, the physician who performs the abortion shall report such determinations, **the reasons for such determinations** and the **basis for the determination that an abortion is necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman** in writing to the medical care facility in which the abortion is performed for inclusion in the report of the medical care facility to the secretary of health and environment under K.S.A. 65-445 and amendments thereto or if the abortion is not performed in a medical care facility, the physician who performs the abortion shall report such determinations, the reasons for such determinations and the basis for the determination that an abortion is necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman in writing to the secretary of health and environment as part of the written report made by the physician to the secretary of health and environment under K.S.A. 65-445 and amendments thereto.

5 (e) As used in this section, "viable" means that stage of fetal development when it is the physician's judgment according to accepted obstetrical or neonatal standards of care and practice applied by physicians in the same or similar circumstances that there is a reasonable probability that the life of the child can be continued indefinitely outside the mother's womb with natural or artificial life-supportive measures.

Prepared by Kansans for Life from Statistics from the Kansas Department of Health and Environment

SEE: www.kdhe.state.ks.us/hci/absumm.html (See abortion summaries for particular year, pages 10-13)

Year	Abortions Total	Abort. Ks. Res.	Abort. Non-Kansan	Chemical #1 RU-486	Chem.#2 Methotrx.	No Prior Abortion	1 Prior Abortion	2 Prior Abort.	3 Prior Abort.	4 Prior Abort.	Unspecifed Prior Abort.
1998	11624	6440	5184	0	125	7410	2910	920	255	126	3
1999	12421	6392	6029	0	289	7864	3089	988	326	152	2
2000	12323	6352	5971	1	403	7721	3106	980	354	162	0
2001	12404	6401	6003	187	314	7645	3123	1105	339	191	1
2002	11844	6298	5546	667	310	7071	3105	1136	344	187	1
TOTAL	**60616**	**31883**	**28733**	**855**	**1441**	**37711**	**15333**	**5129**	**1618**	**818**	**7**

Year	Post-22 Total	Post-22 Viable	% Viable*	Post-22 To Prevent Death	Post-22 Phys.	Post-22 Mental
1998	**227**	**91**	40%	**0**	No statistics are kept	
1999	**574**	**302**	53%	**0**	detailing reasons	
2000	639	380	59%	**0**	for post-22 week	
2001	635	395	62%	**0**	abortions. Only re:	
2002	564	356	63%	**0**	to prevent death (left)	
TOTAL	**2639**	**1524**	**58%**	**0**	& on PBA (below).	

*These are rounded percentages

Year	PBA Total	PBA Viable	% Viable	PBA To Prevent Death	PBA Physical	PBA Mental
1998	**58**	**58**	**100%**	**0**	**0**	**58**
1999	**182**	**182**	**100%**	**0**	**0**	**182**
2000	-	-	-	-	-	-
2001	-	-	-	-	-	-
2002	-	-	-	-	-	
TOTAL	**240**	**240**	**100%**	**0**	**0**	**240**

ABORTIONS BY RESIDENCE OF WOMEN

Year	KS county Douglas	KScounty Johnson	KS county Sedgwick	KS county Wyandotte	KS county all other	OutState Missouri	OutState all other
1998	434	1183	1424	762	2637	4408	776
1999	390	1195	1411	827	2569	5242	787
2000	378	1187	1409	807	2571	5124	847
2001	371	1308	1340	877	2505	5136	867
2002	360	1306	1310	863	2459	4784	762
TOTAL	**1933**	**6179**	**6894**	**4136**	**12741**	**24694**	**4039**

The law requiring these kinds of statistics passed in 1998 and went into effect after July 1998. Thus the 1998 statistics are not complete as regards post-22 week post-22 week and PBA (partial birth abortions.)

The post-22 ban only has an exception for life of the mother and when the pregnancy will "cause a "substantial and irreversible impairment of a major bodily function." (Which the former AG defined to include mental & physical health.)

The Partial Birth Abortion "Ban" has express exceptions for "substantial and irreversible" mental or physical health.

The determination for mental health is made by abortionist and one other doctor who is not financially or legall affiliated with him. However, that doctor can be any kind, need have no mental health training and can be utilized over and over again.

2004 Abortions Performed at 22 Weeks or More Statistics

Physicians reporting abortions performed at 22 weeks or more were required to fill out three numbered questions on the back of the VS-213 form. The questions and answers are provided below for Kansas and out-of-state residents. Data represent reported abortions for the past calendar year. A sample VS-213 form is contained in the appendices.

14) Reasons for determining gestational age 22 weeks or more

Answers	KS Residents	Out-of-State Residents	Total
Sonogram	0	0	0
Physical examination	0	0	0
Physical examination, sonogram results and last menstrual period (if known).	33	460	493
Based on sonogram and biparietal diameter (BPD), determined gestational age to be 22 weeks.	5	17	22
Last menstrual period, sonogram, and perinatal consultation	0	0	0
Estimated date of delivery/confinement and ultrasound	0	2	2
Sonogram and Last Menses	0	0	0
Followup Visit	0	0	0
Not Stated [1]	1	0	1
Total	39	479	518

15a) Was the fetus viable?

Answers	KS Residents	Out-of-State Residents	Total
Yes	8	287	295
No	30	192	222
Not Stated [1]	1	0	1
Total	39	479	518

15b) Reasons for determination of fetus viability

Answers	KS Residents	Out-of-State Residents	Total
It is the professional judgement of the attending physician that there is a reasonable probability that this pregnancy may be viable.	8	286	294
It is the professional judgement of the attending physician that there is a reasonable probability that this pregnancy is not viable.	25	175	200
No reasonable probability at this gestational age.	5	17	22
Ultrasound - Extreme immaturity of heart and lungs	0	0	0
Hypoplastic Left Heart, Chromosome abnormality	0	1	1
0 Apgar score; mother had severe oligohydramnios; fetus had poly/multicystic kidney disease	0	0	0

Source: KDHE Center for Health and Environmental Statistics, Office of Health Care Information *March 2005*

2004 Abortions Performed at 22 Weeks or More Statistics (continued)

15b) Reasons for determination of fetus viability (continued)

Answers	KS Residents	Out-of-State Residents	Total
Diagnosis by genetic specialist with no amniotic fluid and other abnormalities	0	0	0
Extreme Immaturity of Organs	0	0	0
Anencephaly	0	0	0
Hypoplastic L Heart determined by Level 2 ULS and perinatology consultation	0	0	0
Trisomy 22 Hydrocephaly	0	0	0
Not Stated [1]	1	0	1
Total	39	479	518

16a) If 15a was yes, was this abortion necessary to:

Answers	KS Residents	Out-of-State Residents	Total
Prevent patient's death	0	0	0
Prevent substantial and irreversible impairment of a major bodily function	8	287	295
Total	8	287	295

16b) If 15a was yes, reasons for determination in 16a:

Answers	KS Residents	Out-of-State Residents	Total
The patient would suffer substantial and irreversible impairment of a major bodily function if she were forced to continue the pregnancy.	8	287	295
Total	8	287	295

16c) If 15a was yes, basis for determination in 16a:

Answers	KS Residents	Out-of-State Residents	Total
Gestational and diagnostic information provided by the referring physician and other health care professional(s) as well as examination and interview of the patient by attending physician.	8	287	295
The patient is suffering a medical emergency. Based on examination and interview of the patient by the attending physician, the physician judges that the abortion is necessary to prevent substantial and permanent damage to a major bodily function.	0	0	0
Total	8	287	295

[1] Data for one Kansas resident who received an abortion out of state at 22 weeks or greater was unavailable as that state did not collect such information

All Reported Data

Source: KDHE Center for Health and Environmental Statistics, Office of Health Care Information *March 2005*

2004 "Partial Birth" Procedure Statistics

Physicians reporting "partial birth" abortions were required to fill out three numbered questions on the back of the VS-213 form. Those questions and the answers are provided below for Kansas and out-of-state residents. The questions would be in addition to those filled out if gestation was 22 weeks or more. All data are occurrence. The data represent a full year of reporting. A sample VS-213 form is in the appendices. No "partial birth" abortions were reported in 2004 in Kansas.

Number of "partial birth" procedures

Time Period	KS Residents	Out-of-State Residents	Total
January 1 - March 31	0	0	0
April 1 - June 30	0	0	0
July 1 - September 30	0	0	0
October 1 - December 31	0	0	0
Total	0	0	0

17a) For terminations where "partial birth" procedure was performed, was fetus viable?

Answers	KS Residents	Out-of-State Residents	Total
Yes	0	0	0
No	0	0	0
Total	0	0	0

17b) Reasons for determination of fetus viability

Answers	KS Residents	Out-of-State Residents	Total
It is the professional judgement of the attending physician that there is a reasonable probability that this pregnancy is not viable.	0	0	0
It is the professional judgement of the attending physician that there is a reasonable probability that this pregnancy may be viable.	0	0	0
Total	0	0	0

Source: KDHE Center for Health and Environmental Statistics, Office of Health Care Information *March 2005*

2004 "Partial Birth" Procedure Statistics (continued)

18a) Was this abortion necessary to:

Answers	KS Residents	Out-of-State Residents	Total
Prevent patient's death	0	0	0
Prevent substantial and irreversible impairment of a major bodily function	0	0	0
Total	0	0	0

18a) If the abortion was necessary to prevent substantial and irreversible impairment of a major bodily function, was the impairment:

Answers	KS Residents	Out-of-State Residents	Total
Physical	0	0	0
Mental	0	0	0
Total	0	0	0

18b) Reasons for Determination of 18a

Answers	KS Residents	Out-of-State Residents	Total
Based on the patient's history and physical examination by the attending physician and referral and consultation by an unassociated physician, the attending physician believes that continuing the pregnancy will constitute a substantial and irreversible impairment of the patient's mental function	0	0	0
Total	0	0	0

Occurrence Data

Source: KDHE Center for Health and Environmental Statistics, Office of Health Care Information *March 2005*

2003 Abortions Performed at 22 Weeks or More Statistics

Physicians reporting abortions performed at 22 weeks or more were required to fill out three numbered questions on the back of the VS-213 form. The questions and answers are provided below for Kansas and out-of-state residents. Data represent reported abortions for the past calendar year. A sample VS-213 form is contained in the appendices.

14) Reasons for determining gestational age 22 weeks or more

Answers	KS Residents	Out-of-State Residents	Total
Sonogram	1	0	1
Physical examination	3	28	31
Physical examination, sonogram results and last menstrual period (if known).	27	397	424
Based on sonogram and biparietal diameter (BPD), determined gestational age to be 22 weeks.	14	19	33
Last menstrual period, sonogram, and perinatal consultation	0	0	0
Estimated date of delivery/confinement and ultrasound	0	1	1
Sonogram and Last Menses	0	0	0
Followup Visit	0	0	0
Not Stated [1]	1	0	1
Total	46	445	491

15a) Was the fetus viable?

Answers	KS Residents	Out-of-State Residents	Total
Yes	11	307	318
No	34	138	172
Not Stated [1]	1	0	1
Total	46	445	491

15b) Reasons for determination of fetus viability

Answers	KS Residents	Out-of-State Residents	Total
It is the professional judgement of the attending physician that there is a reasonable probability that this pregnancy may be viable.	11	307	318
It is the professional judgement of the attending physician that there is a reasonable probability that this pregnancy is not viable.	20	119	139
No reasonable probability at this gestational age.	14	19	33
Ultrasound - Extreme immaturity of heart and lungs	0	0	0
Hypoplastic Left Heart, Chromosome abnormality	0	0	0
0 Apgar score; mother had severe oligohydramnios; fetus had poly/multicystic kidney disease	0	0	0

Source: KDHE Center for Health and Environmental Statistics, Office of Health Care Information *March 2004*

2003 Abortions Performed at 22 Weeks or More Statistics (continued)

15b) Reasons for determination of fetus viability (continued)

Answers	KS Residents	Out-of-State Residents	Total
Diagnosis by genetic specialist with no amniotic fluid and other abnormalities	0	0	0
Extreme Immaturity of Organs	0	0	0
Anencephaly	0	0	0
Hypoplastic L Heart determined by Level 2 ULS and perinatology consultation	0	0	0
Trisomy 22 Hydrocephaly	0	0	0
Not Stated [1]	1	0	1
Total	46	445	491

16a) If 15a was yes, was this abortion necessary to:

Answers	KS Residents	Out-of-State Residents	Total
Prevent patient's death	0	0	0
Prevent substantial and irreversible impairment of a major bodily function	11	307	318
Total	11	307	318

16b) If 15a was yes, reasons for determination in 16a:

Answers	KS Residents	Out-of-State Residents	Total
The patient would suffer substantial and irreversible impairment of a major bodily function if she were forced to continue the pregnancy.	11	307	318
Total	11	307	318

16c) If 15a was yes, basis for determination in 16a:

Answers	KS Residents	Out-of-State Residents	Total
Gestational and diagnostic information provided by the referring physician and other health care professional(s) as well as examination and interview of the patient by attending physician.	11	307	318
The patient is suffering a medical emergency. Based on examination and interview of the patient by the attending physician, the physician judges that the abortion is necessary to prevent substantial and permanent damage to a major bodily function.	0	0	0
Total	11	307	318

[1] Data for one Kansas resident who received an abortion out of state at 22 weeks or greater was unavailable as that state did not collect such information

All Reported Data

Source: KDHE Center for Health and Environmental Statistics, Office of Health Care Information *March 2004*

80-90% Down Syndrome babies aborted

Study Fuels Controversy Over Down Syndrome Abortions

Marc Morano CNSNews.com April 05, 2005

A study published in the March issue of the American Journal of Obstetrics and Gynecology shows that many pregnant women receive only negative information from medical professionals when a prenatal diagnosis reveals a potential for giving birth to a baby with Down syndrome. The study is billed as "the largest, most comprehensive study on prenatally diagnosed Down syndrome to date."

Among the examples noted in the report was an expectant mother who spoke of a medical professional who "showed a really pitiful video, first of people with Down syndrome who were very low tone and lethargic-looking, and then proceeded to tell us [in 1999] that our child would never be able to read, write or count change."

The study found that expectant mothers were often not counseled by medical personnel regarding the latest information on Down syndrome or given any contact information about parent support groups during the emotional period when many women decide whether to seek an abortion.

Alissa Murray, 8, who was born with Down syndrome, reads a book with her mother, Julie Grace, of Lawrence Kansas. Sen. Sam Brownback is sponsoring a bill to provide more positive counseling for parents of children with the syndrome. *(Joel Mathis, LJWorld.com, 5-16-05)*

While the live birth rate of babies afflicted with Down syndrome has remained steady in recent years, studies have shown the abortion rate of Down syndrome babies is estimated at 80 to 90 percent when prenatal screening reveals the possibility or probability for the condition.

The situation is compounded by the fact that some of the prenatal Down syndrome **testing is wrong 20 to 40 percent of the time,** raising the question of whether healthy unborn children are being aborted.

Down syndrome is a chromosomal anomaly that causes an error in cell development resulting in 47 chromosomes rather than the usual 46. The extra gene material slightly changes the orderly development of the body and brain.

According to the Center for Disease Control (CDC) about three percent of babies born in the U.S. have birth defects and it is estimated that about **5,000 children are born with Down syndrome annually.** It is estimated that 250,000 individuals with Down syndrome are currently living in the U.S.

Past studies have shown that the prenatal diagnosis of the unborn child with Down syndrome has resulted in high rates of abortion with at least one study showing medical professionals often pressure woman to abort.

Viable babies with Down Syndrome aborted in Wichita

Stephanie Simon, LATimes May 31, 2005 *(excerpt)*

Three clinics in the nation perform abortions in the third trimester. One is in Los Angeles, one in Boulder, Colo. **The best-known — recommended by many genetic counselors — is Tiller's bunker-like clinic** on a freeway frontage road in Wichita, next to a car dealership

In March 2001, a week into her third trimester, Katie Plazio,43, a financial analyst from New Jersey, and her husband flew to Tiller's clinic. Genetic tests had determined that their son had Down syndrome. Plazio had studied special education in college; working with adults with Down syndrome, she had seen their lives as lonely, frustrating, full of hurt. She was not sure she could find joy in raising her son to such a future. "That's selfish, I know. I feel selfish. But … doesn't everyone want the best for themselves and their family?"

The **abortion she sought to preserve her mental health has left her deeply shaken;** doctors say she suffers from post-traumatic stress syndrome. Since her abortion, Plazio has suffered such severe panic attacks that she can't drive even as far as the high school to watch her daughter cheerlead. She has gained 60 pounds as she battles depression

This lengthy story includes details of other women aborted at Tiller's because of disability diagnoses in utero.

. Box 8249
Wichita, KS 67208
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PRO KAN DO

Julie Burkhart – *Chair*

Joan Armentrout – *Treasurer*

316.691.20 one)
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Senator Jim Barnett
Chairman, Senate Public Health and Welfare Committee
300 SW 10th St.
Room 120 S
Topeka, Kansas 66612

Dear Senator Barnett and Committee Members:

ProKanDo, which is a pro-woman, pro-choice political organization, rises in opposition to SB 528 for the reasons, which are outlined below.

First, SB 528 is unnecessary to track abortions performed in Kansas or to properly keep track of medical statistics. Physicians in Kansas are already required to report the number of pregnancies lawfully terminated during an identified period of time. Senate Bill 528 would require that medical personnel report far more than the number of terminated pregnancies currently required by the Secretary of Health and Environment. It would also require the submission of a variety of very private details, including the reasons for a termination of pregnancy past 21 weeks, the disability status of a pregnant female, if any, and details of fetal anomalies.

Kansas already has strict restrictions on abortions, which are outlined in KSA 65-6703. In Kansas, abortions are prohibited after 21 weeks of pregnancy unless two physicians determine the abortion is necessary to save the life of the mother or continuation of the pregnancy will cause a "substantial and irreversible impairment of a major bodily function" of the woman. Requiring further information would merely be poking into the private interests of the patient.

As the Kansas Supreme Court noted, just over a week ago, and as the Attorney General has conceded, where "nothing more than the existence of a reasonable medical debate about some aspect of the application of the criminal abortion . . . statutes" is involved, that does "not constitute a crime." *Alpha and Beta Medical Clinic v. Anderson*, ___ Kan. ___, 2006 WL 250239 at * 15-16 (Feb. 3, 2006). Moreover, the U.S. Supreme Court has found that a health exception should include – physical, emotional and psychological factors – all, which they found relevant to the well being of the patient. This allows the attending physician the room he needs to make his best medical judgment. And it is room that operates for the benefit, not the disadvantage, of the pregnant woman.

This reporting statute would do nothing but promote micromanagement of the legislature into reasonable medical considerations and do nothing to promote the health of the mother, the public, or assist in enforcing any of the state's current laws. The current law has been read to explicitly recognize that both physical and mental bodily functions of the woman are equally valid reasons for late term termination of pregnancy. *Id.* at *13. Given this strong reaffirmation of the present Kansas law, further reporting beyond the contours of that law is duplicitous, unnecessary and constitutes an invasion of rights of privacy.

In addition, we fear that the only purpose of this bill is simply to aid Attorney General Kline in his attempt to ban abortion. As you all know, Kline opposes all abortions and has repeatedly stated a woman's mental health is an insufficient reason to allow for terminations of pregnancy after 22-weeks.

Senate Public Health & Welfare Committee
2/15/06
Date: Feb. 15, 2006
Attachment # 2

econd, SB 528 invades the privacy of patients and physicians, even without requiring that their identities be divulged.

As demonstrated by the Attorney General's recent unsuccessful attempt to subpoena medical records, access to reports filed with KDHE can be used in a witch-hunt to try and prosecute those with whom the prosecutor differs politically. This statute would simply lead to the inclusion of more details in the reports and, inexorably, lead to more incursions into women's right of privacy. The reporting of a patient's personal information, such as details of fetal anomalies, disabilities and the like would all lead to more and more information for the state to paw over in determining who obtained an abortion.

Federal Courts have held that "[e]ven if there were no possibility that a patient's identity might be learned from a redacted medical record, there would be an invasion of privacy . . . . The revelation of the intimate details contained in the record of a later term abortion may inflict a similar wound." *Northwestern Memorial Hospital v. Ashcroft*, 362 F. 3d 923, 928-929 (7th Cir. 2004). The Kansas Supreme Court also recently reaffirmed the right of a woman to maintain the privacy of certain information and the right to obtain confidential health care. *Alpha Medical Clinic, supra* at *11.

This bill would greatly expand the universe of information required to be reported regarding each patient and cross over the line of privacy, which courts recognize.

In addition, the current law states the reporting requirement "shall be confidential and shall not be disclosed in a manner that would reveal the identity of any person licensed to practice medicine." Because there is only one doctor performing abortions after 22 weeks in Kansas, it would be impossible to protect this provider's identity. Therefore, the additional reporting requirements would violate the privacy provisions included in the existing law; thus, providing a contradiction within the law.

In closing, I want to highlight what often gets lost in this debate. Abortions after 21 weeks are rare; 1.4% of all abortions are performed at or after this time. *Guttmacher Institute, Induced Abortion in the United States, May 18, 2005.* Doctors do not perform these abortions in cases where the fetus is healthy or the mother would not be substantially or irreversibly damaged if she were forced to carry her pregnancy to term. Moreover, most women who have abortions after 21 weeks do so because they're trying to make the best possible decision for themselves and their families. These women want to be mothers, and fortunately, they are often able to go on and have healthy pregnancies. I've had women send pictures to me of healthy children they've been able to have after terminating a pregnancy due to fetal anomaly. It brings joy to my heart to know that these women and their families have been able to heal and form a family that is good for them.

I want to leave you with some thoughts from a woman who had an abortion due to fetal anomaly. "I don't want anyone to think that I did this all for Matthew," she said. "I was not just sparing him problems. I was sparing my daughter, my husband, me and all those who depend on me….I knew the limits of my family and my marriage. Maybe there are families who can handle it all. Maybe they are better people. But I knew I could not do it." *Los Angeles Times, A Late Decision, A Lasting Anguish, May 31, 2005.*

Thank you for this opportunity to provide testimony. I urge all committee members to oppose SB 528.

Sincerely,

Julie Burkhart

IN THE SUPREME COURT OF THE STATE OF KANSAS

No. 93,383

ALPHA MEDICAL CLINIC AND

BETA MEDICAL CLINIC,

Petitioners,

v.

HONORABLE RICHARD ANDERSON, JUDGE OF THE THIRD JUDICIAL DISTRICT, SHAWNEE COUNTY, KANSAS, AND PHILL KLINE,

ATTORNEY GENERAL FOR THE STATE OF KANSAS,

Respondents.

SYLLABUS BY THE COURT

1. K.S.A. 22-3101 *et seq.* governs the conduct of inquisitions in criminal cases in Kansas. K.S.A. 2004 Supp. 22-3101(1) authorizes the attorney general, if he or she has knowledge of any alleged violation of Kansas law, to apply to a district judge to conduct an inquisition. Once the attorney general's verified application setting forth the alleged violation of the law is filed, the judge "shall issue a subpoena for the witnesses named in such praecipe commanding them to appear and testify concerning the matters under investigation." K.S.A. 2004 Supp. 22-3101(1).

2. Although K.S.A. 2004 Supp. 22-3101 does not mention subpoenas duces tecum, such subpoenas are authorized in both judicial and prosecutorial inquisitions.

3. The standard governing a district court's review of the attorney general's allegations before issuing inquisition subpoenas is reasonable suspicion rather than probable cause.

4. K.S.A. 65-6703, the criminal abortion statute, provides that a pregnant woman who desires an abortion must have her treating physician determine the gestational age of the fetus. If that age is less than 22 weeks, then the woman may obtain an abortion as long as appropriate documentation requirements are met. If the gestational age is 22 weeks or more, the treating physician must then make a determination of fetus viability, *i.e.*, the ability of the fetus to survive outside the womb. If the fetus is not viable, the woman may obtain an abortion as long as appropriate documentation and reporting requirements are met. If the fetus is viable, then the treating physician and the physician who will perform the abortion must agree that the abortion is necessary to preserve the life of the pregnant woman or because continuation of the pregnancy will cause substantial and irreversible impairment of a major bodily function of the woman, before an abortion can be performed and documented.

5. K.S.A. 2004 Supp. 38-1522 requires health care providers, *inter alia,* to file a report with Kansas Department of Social and Rehabilitation Services when they have reason to suspect that a child has been

hold otherwise could permit exactly the abuse of prosecutorial power the courts must be vigilant to prevent. To the extent the inquisition rests on the attorney general's ignorance, disregard, or misinterpretation of precedent from the United States Supreme Court, subpoenas pursuant to the inquisition cannot be allowed.

For example, the United States Supreme Court has long held, and continues to hold that, in order to be constitutional, state restrictions on abortions must include exceptions to preserve both the life and health of the pregnant woman. See *Casey,* 505 U.S. at 846 (emphasizing this rule as part of the "essential holding" of *Roe v. Wade,* 410 U.S. 113, 35 L. Ed. 2d 147, 93 S. Ct. 705, *reh. denied* 410 U.S. 959 [1973]); see also *Ayotte v. Planned Parenthood of Northern New England,* ___ U.S. ___, 2006 WL 119149 (January 18, 2006). Moreover, "health" has been interpreted by the United States Supreme Court to include the mental or psychological health of the pregnant woman. See *Doe v. Bolton,* 410 U.S. 179, 191-92, 35 L. Ed. 2d 201, 93 S. Ct. 739 (1973); *United States v. Vuitch,* 402 U.S. 62, 71-72, 28 L. Ed. 2d 601, 91 S. Ct. 1294 (1971). The attorney general has said he disagrees with requiring an exception to preserve the pregnant woman's mental health. Until the United States Supreme Court or the federal Constitution says otherwise, however, the mental health of the pregnant woman remains a consideration necessary to assure the constitutionality of the Kansas criminal abortion statute. Judge Anderson was not free to decide the subpoenas should issue in the first place or whether the petitioners' motion to quash should be denied without considering the soundness of any legal interpretations on which the attorney general depends. This is true of any district judge who passes on an inquisition application or associated subpoenas.

Third, Judge Anderson erred in refusing to allow redaction of patient-identifying information from the files. This information must be redacted by petitioners before the files are turned over to the court. Should patient-identifying information later be required, the district judge may approve appropriate subpoenas for that information at that time.

As noted above, Judge Anderson's order also permitted the attorney general to select the physician or physicians who would participate in the initial in camera review of the records. At oral argument, Rucker stated that the attorney general was unwilling to trust doctors employed by or associated with petitioners to participate in this segment of the process. Understandably, petitioners are equally reluctant to have a physician or physicians selected by the attorney general do so. Kline's Motion to Clarify eliminates this issue, however. The attorney general has now explicitly stated that he does not oppose Judge Anderson's appointment of the physician or physicians to be trusted with this task.

In sum, Judge Anderson must withdraw his order and first evaluate the inquisition and subpoenas in light of what the attorney general has told him regarding his interpretation of the criminal statutes at issue. If the judge requires additional information in order to perform this evaluation, he should seek it from the attorney general in the inquisition proceeding. As targets of the investigation, petitioners need not be included in any hearing or other communication to enable this evaluation.

Only if Judge Anderson is satisfied that the attorney general is on firm legal ground should he permit the inquisition to continue and some version of the subpoenas to remain in effect. Then he also must enter a protective order that sets forth at least the following safeguards: (1) Petitioners' counsel must redact patient-identifying information from the files before they are delivered to the judge under seal; (2) the documents should be reviewed initially in camera by a lawyer and a physician or physicians appointed by the court, who can then advise the court if further redactions should be made to eliminate information unrelated to the legitimate purposes of the inquisition. This review should also determine whether any of the files demonstrate nothing more than the existence of a reasonable medical debate about some aspect of the application of the criminal abortion and/or mandatory child abuse reporting statutes, which the attorney general's office has already acknowledged would not constitute a crime. If so, those files should

COLUMN ONE

A Late Decision, a Lasting Anguish

A Kansas doctor is under investigation for performing abortions others won't. His clients say outsiders can't grasp their pain or gratitude.

By Stephanie Simon
Times Staff Writer

May 31, 2005

WICHITA, Kan. - The moment is burned forever in her mind: The small exam room, her husband's ashen face, her sobs as the doctor guided a needle into her womb to kill her son.

It's been 4 1/2 years, and still Marie Becker can feel Daniel kicking inside her, kicking and kicking as she choked back hysteria - kicking until the drug stopped his heart and she felt only stillness.

She prayed Daniel would forgive her.

She prayed for forgiveness from God as well. Becker had been taught that abortion was a sin; she wanted so to believe it might also be a blessing. In her seventh month of pregnancy she had learned Daniel had a fatal genetic disorder and his life would be brief and brutal. She wanted to spare him that.

"For the love of God, the last thing I wanted to do was to murder my own child," she said recently. "This was something we did out of love and respect for him."

Becker, who asked to be identified by her middle and maiden names, tells Daniel's story to other pregnant women who find out when they are many months along that their babies are terminally ill or severely disabled. Through an online support group, she listens as they work through their options; if they choose abortion, she tells them what to expect.

These days she also prays for one of the few doctors in the nation who will take them as patients: Dr. George R. Tiller, who performed her abortion. Specializing in late second- and third-trimester abortions, his clinic here draws women from across the country and around the world.

Tiller's clinic aborted 295 viable fetuses last year and 318 the year before; his website says that he has performed more late-term abortions than anyone else practicing in the Western Hemisphere.

But the clinic is now under criminal investigation for some of those procedures.

Like most states, Kansas does not permit abortions of viable fetuses unless carrying the pregnancy to term would substantially and irreversibly damage the mother's health. Kansas Atty. Gen. Phill Kline is investigating whether Tiller's patients were truly in that much

r. Tiller's lawyers respond that he has "always consistently, carefully and appropriately followed the law in all respects."

Kline, who opposes all abortions, maintains that the mental health concerns some women cite as their main reason for terminating - including depression or anxiety about raising a disabled child - do not justify late-term abortions under Kansas law. He has demanded access to the medical records of dozens of patients. The clinic has appealed to the state Supreme Court; a decision is expected within weeks.

Tiller's patients await the ruling with mounting anger. They say no outsider could ever understand the complex tangle of emotions that brought them to Women's Health Care Services - the psychological and physical strains that made continuing their pregnancies unbearable.

"I don't know what I would have done had [Dr. Tiller] not been available to me," said Katie Plazio, a financial analyst from New Jersey. "That's selfish, I know. I feel selfish. But ... doesn't everyone want the best for themselves and their family?"

Like Becker and most women who spoke for this story, Plazio asked to use her middle and maiden names to protect her privacy. Many of Tiller's patients have not told their co-workers, friends or even close relatives that they had terminated pregnancies. Their abortions were verified by a review of clinic records they supplied.

For Plazio, the heartache began with the unexpected. After a decade of infertility, she was stunned to feel a kick to her ribs as she sat through a meeting in February 2001. She had been dieting for weeks, running five miles a day - and wondering why she still couldn't squeeze into her pants. She was six months pregnant.

Overjoyed, Plazio and her husband scheduled an amniocentesis. The preliminary results were clean; bursting with excitement, Plazio, then 43, bought a baby blanket dotted with pale blue bunnies. Ten days later, her doctor called with devastating news: More complete genetic tests had determined that their son had Down syndrome.

Plazio had studied special education in college; working with adults with Down syndrome, she had seen their lives as lonely, frustrating, full of hurt. She was not sure she could find joy in raising her son to such a future. She didn't think she could cope with what she expected would be a lifetime of sadness and struggle.

Giving her son up for adoption seemed even worse - to wake each morning not knowing where he was, imagining him scared and alone. "I could not live with that fear all my life," Plazio said.

"I don't want anyone to think that I did this all for Matthew," she said. "I was not just sparing him problems. I was sparing my daughter, my husband, me and all those who depend on me.... I knew the limits of my family and my marriage. Maybe there are families who can handle it all. Maybe they are better people. But I knew I could not do it."

In March 2001, a week into her third trimester, she and her husband flew to Tiller's clinic. They took the bunny blanket and a teddy bear with a big red heart on its chest - a gift to the baby from their daughter, then 11.

Since her abortion, Plazio has suffered such severe panic attacks that she can't drive even as far as the high school to watch her daughter cheerlead. She has gained 60 pounds as she battles depression. The abortion she sought to preserve her mental health has left her deeply shaken; doctors say she suffers from post-traumatic stress syndrome.

her mental health, she is convinced, would be even worse had she tried to raise a profoundly disabled son - or had she given him up for adoption.

The abortion "released my poor sick baby back to the angels," she said. "The only thing I wish I had done differently was realize I was pregnant months earlier."

Third-trimester terminations like Plazio's are unusual.

About 95% of U.S. abortions are performed within the first 15 weeks of pregnancy, according to the Alan Guttmacher Institute, a nonprofit center for reproductive rights and health research.

About 20,000 women a year seek abortions after the 21st week, which marks roughly the midway point in a pregnancy. Perhaps 1,000 terminate after 24 weeks, when the fetus is generally considered viable. The practice, though rare, makes many Americans uneasy. While 60% say abortion should be legal in the first trimester of pregnancy, 12% say it should be legal in the third trimester, according to a Harris poll conducted in February.

Three clinics in the nation perform abortions in the third trimester. One is in Los Angeles, one in Boulder, Colo. The best-known - recommended by many genetic counselors - is Tiller's bunker-like clinic on a freeway frontage road in Wichita, next to a car dealership. Outside, protesters have erected dozens of white crosses; they maintain a prayer vigil by the gate and try to pull women aside for counseling - especially on Tuesday mornings, when Tiller sees patients seeking late-term abortions.

The women who push past the protesters Tuesdays include young victims of rape or incest who did not realize they were pregnant until just weeks from their due dates. Most are married women with much-wanted pregnancies who got a late diagnosis of fetal anomaly: a malformed heart, a missing brain, an open spinal column, an extra chromosome.

Some of the deformities are lethal. Others are not. A few fall in a gray area: The physical problems might be reparable through surgery, but the operations are risky and grueling.

One patient who had an abortion at 25 weeks in November said she could not bear to imagine surgeons cutting open her daughter's tiny chest to rebuild her heart. The thought of her Emma spending months of her childhood in the hospital overwhelmed the woman, a 30-year-old technology educator from Virginia who asked to be identified by her middle name, Paige.

"Part of me just wanted to let her die," Paige said. "Is that horrible?"

Marie Becker had the same impulse - and the same question - about her son.

At a four-month ultrasound, the doctor noticed that Daniel's limbs seemed short. She told Becker not to worry, but suggested another ultrasound in a few weeks. At that appointment, Daniel again measured short. Becker was told to come back in another month.

Becker, an accounting clerk, and her husband, a teacher, tried not to dwell on their fears for their first child. They delighted in the ultrasound pictures: Blurry black-and-white images of an arm, a leg, a face. In one, Daniel appeared to be waving; the technician typed a caption: "Hi, mom!"

Becker was 27 weeks pregnant when she went in for her next appointment. By then, it was clear that something was wrong.

A few days later, her doctor confirmed that Daniel had a rare and lethal skeletal disease. His organs were growing normally, but his bones were not; his tiny rib cage was slowly crushing his expanding heart and lungs. "His prognosis was death," Becker said. "Not at 8 years old. Not at 10 years old. Within a few months at most."

In her Florida home, with her husband at her side, Becker wept and prayed for days. Conflicting emotions overwhelmed her. She was scared to carry Daniel to term - scared of how she would react to his deformities. She was afraid to abort, sure she would burn in hell. Her son disgusted her; she wanted him out of her body. She loved him. She wanted to protect him.

Becker, who was then 30, blamed herself for making Daniel sick: Hadn't she taken migraine pills before she knew she was pregnant? Hadn't she sipped a few glasses of wine? Was it that ride at SeaWorld, the one that whirled her around? Had that caused his genes to mutate?

"I was so afraid," she said. "It was bad enough that I had inflicted this on him. I didn't want him to suffer any more."

The week before Christmas, at the start of her third trimester, Becker and her husband flew to Kansas.

Every detail of the trip remains vivid. She remembers staring, transfixed, at the freshly cleaned carpet in the Wichita airport. She remembers driving to the hotel through ice and snow - and turning away from a billboard plastered with gruesome photos of aborted fetuses. On the morning of the appointment, she threw up in the hotel shower, then insisted she needed time to style her hair; her looks seemed the one thing she could control, and she took long minutes applying her lipstick.

When she and her husband turned into the clinic parking lot, a handful of elderly protesters swarmed them, yelling, "Don't go in!" and "You don't have to do this!"

The activists were peaceful that day, but there had been scattered violence: The clinic was bombed in 1986 and blockaded for six weeks in the summer of 1991. In 1993, an antiabortion activist shot Tiller through both arms. He now works in a bulletproof vest.

Armed guards pat down patients and walk them through a metal detector at the clinic door. After paying for their abortions - which can cost more than $5,000, depending on the stage of pregnancy - patients wait in a room decorated floor to ceiling with framed letters from grateful women.

"We couldn't stop reading them," Becker said. "When you see how many people wrote letters, when you see how much they love this man, it almost feels like you're being hugged."

Becker still believes that abortion is wrong in most cases. Sitting in her Florida bungalow, her two young daughters playing beside her, she recalled a movie she once saw in Catholic school, of a baby being ripped limb from limb. The image haunts her.

She finds it reprehensible that Tiller aborts healthy fetuses in the first and second trimester (and even, sometimes, in the third trimester when the mother is very young, or a victim of rape). But she cannot censure him too harshly.

2-8

children like Daniel, "the man is a savior," she said. "He's there for women who have nowhere else to go."

With most advanced pregnancies, Tiller performs abortions by injecting the fetus with digoxin to stop its heart. He then gradually dilates the woman's cervix to induce labor. After two or three days of contractions, the women - heavily dosed with pain medication - deliver their babies intact.

Some refuse to look. But many hug their dead children. "It was very important to us to be able to hold her, to give her that kind of respect," said Paige, who aborted her daughter at the end of the second trimester. "This was not just a fetus to me. She was my child."

After Susan Crocker's second-trimester abortion in August, she and her fiance spent three hours cradling their daughter, Isabella, who had Down syndrome. They stroked her scrunched red face and kissed her rounded cheeks. They took pictures of her tiny, almost translucent hands, folded across a green-and-pink striped blanket.

Crocker, a 34-year-old customer service manager, keeps Isabella's ashes in a marble urn decorated with dolphins; she kisses it before she goes to bed each night. Her sons follow her lead. On Halloween, they each gave a Tootsie Roll to Isabella. Jordan, 5, shares his toys with her, propping a little plastic skateboard against the urn.

When a doctor once referred to Crocker as a mother of two, Jamie, the 9-year-old, interrupted indignantly: "No, she has three kids."

"Her daughter's in her heart," said Jordan.

Despite her family's support, Crocker, who lives in Texas, has struggled with doubt and depression. "I did the unthinkable," she said. "I ended my baby's life. Sometimes I think, oh God, what if I was wrong?"

Then she thinks about the room where Tiller stopped Isabella's heart. There was a poster on the ceiling of a leaping dolphin. Underneath, it said: "Set them free."

She believes Isabella is free.

"I ended her suffering," she said. "I owe Dr. Tiller greatly. I can never, ever thank him enough."

Crocker sometimes wishes she could talk to the protesters who shouted as she entered the clinic: "Think about your baby!" She would tell them she was thinking of Isabella then, and thinks of her still, every day, with love. She would ask them not to judge.

"You don't know," she'd tell them. "You have no idea. Until it happens to you, you don't know."

K A N S A S

RODERICK L. BREMBY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

DEPARTMENT OF HEALTH AND ENVIRONMENT

Testimony on Written Report Concerning Abortions (Senate Bill 529)
To
Senate Public Health and Welfare Committee
Presented by Lorne A. Phillips, PhD
State Registrar and Director
Center for Health and Environmental Statistics
Division of Health
Kansas Department of Health and Environment

February 15, 2006

Chairperson Barnett and members of the Senate Public Health and Welfare Committee I am pleased to appear before you today to discuss SB 529.

As proposed, KDHE can't support the bill's passage. The reason is the bill, if enacted, would establish incompatible concepts in reporting vital events.

The department collects extensive information on live births, stillbirths, and abortions. Each of these events is a mutually exclusive pregnancy outcome, each with its own report or certificate. Senate Bill 529, in attempting to add fields to the abortion report to collect information about an attempted abortion wherein the fetus was "born alive", creates a reporting conundrum. The federal Born Alive Act's definition of a born alive fetus is in essence the definition of a Kansas live birth which must be reported under KSA 65-2401 on the birth certificate. This bill, however, would require such an event to also be reported as abortion. This presents an illogical situation as by definition, one can't categorize the same occurrence as two distinct outcomes.

Additionally, all of the information this bill seeks to collect on this live birth, except for the mother's disabilities, is presently reported on the live birth certificate. This information could be more effectively obtained by creating a separate paper reporting form for attempted abortions that result in live births. The bill's language should be modified to require providers to file this new report and also a live birth certificate. This approach could be implemented at no cost.

I thank you for the opportunity to appear before the Senate Public Health and Welfare Committee and will gladly stand for questions the committee may have on this topic.

Attachment: VS 213 Kansas Abortion Reporting Form

Senate Public Health & Welfare Committee

DIVISION OF HEALTH
CENTER FOR HEALTH AND ENVIRONMENTAL STATISTICS
CURTIS STATE OFFICE BUILDING, 1000 SW JACKSON ST., STE. 110, TOPEKA, KS 66612-2221
Voice 785-296-1415 Fax 785-296-8869

Date: Feb. 15, 2006
attachment # 3

TYPE
OR
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KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
Office of Health Care Information
Curtis State Office Building, Suite 130
1000 SW Jackson
Topeka, Kansas 66612-1354
785-296-8627

Report of Induced Termination of Pregnancy

State File Number

INSTRUCTIONS SEE HANDBOOK

1. Provider Identification Number 00000

2. Patient ID Number	3. Age on Last Birthday	4. Married	5. Date of Pregnancy Termination
		☐ Yes ☐ No	Month ☐☐ Day ☐☐ Year ☐☐☐☐

6a. Residence *US State or Country*	6b. County	6c. City or Town	6d. Inside City Limits
			☐ Yes ☐ No

7a. Hispanic Origin
(Check the box or boxes that best describes whether the individual is Spanish, Hispanic, or Latina, or not Spanish, Hispanic, or Latina)

- ☐ Not Spanish, Hispanic, or Latina
- ☐ Mexican, Mexican American, or Chicana
- ☐ Puerto Rican
- ☐ Cuban
- ☐ Central American
- ☐ South American
- ☐ Other Spanish, Hispanic, or Latina (specify) _____
- ☐ Unknown

7b. Ancestry
(Enter the name of the country that best describes the heritage or origin of the individual)

8. Race
(Check one or more races to indicate what the individual considers herself to be

- ☐ White
- ☐ Black or African American
- ☐ American Indian or Alaska Native
  Principal Tribe(s)_____
- ☐ Asian Indian
- ☐ Chinese
- ☐ Filipino
- ☐ Japanese
- ☐ Korean
- ☐ Vietnamese
- ☐ Other Asian (specify) _____
- ☐ Native Hawaiian
- ☐ Guamanian or Chamorro
- ☐ Samoan
- ☐ Other Pacific Islander (specify) _____
- ☐ Other (specify) _____
- ☐ Unknown

9. Education
(specify only highest grade completed)

- ☐ 8th grade or less
- ☐ 9th-12th grade no diploma
- ☐ High school graduate/GED
- ☐ Some College - no degree
- ☐ Associate degree
- ☐ Bachelor's degree
- ☐ Master's degree
- ☐ Doctorate
- ☐ Unknown

10. Date Last Normal Menses Began	11. Clinical Estimate of Gestation *(Weeks) (1)*	12. Previous Pregnancies *(Enter number or zero in every section)*			
		Live Births		12c. Previous Induced Abortions	12d. Spontaneous Terminations (Miscarriages, Fetal Deaths)
		12a. Now Living	12b. Now Dead		
Month ☐☐ Day ☐☐ Year ☐☐☐☐					

13 TERMINATION PROCEDURES

13a Procedure that terminated pregnancy

(Check only one)

- ☐ Suction Curettage
- ☐ Sharp Curettage
- ☐ Dilation & Evacuation
- ☐ Medical Procedure I (Mifepristone)
- ☐ Medical Procedure II (Methotrexate)
- ☐ Intra-Uterine Prostaglandin Instillation
- ☐ Hysterotomy
- ☐ Hysterectomy
- ☐ Digoxin/Induction
- ☐ Partial Birth (2)
- ☐ Other (Specify) _____

13b Additional procedures used for this termination, if any

(Check all that apply)

- ☐ Suction Curettage
- ☐ Sharp Curettage
- ☐ Dilation & Evacuation
- ☐ Medical Procedure I (Mifepristone)
- ☐ Medical Procedure II (Methotrexate)
- ☐ Intra-Uterine Prostaglandin Instillation
- ☐ Hysterotomy
- ☐ Hysterectomy
- ☐ Digoxin/Induction
- ☐ Partial Birth (2)
- ☐ Other (Specify) _____

1 If clinical estimate of gestational age is 22 weeks or more, complete reverse side of form
2 If Partial Birth Procedure as defined by KSA 65-6721 is used, complete reverse side of form

VS 213 Rev. 1/2005

3-2

Complete the following items only if the clinical estimate of gestational age is 22 weeks or more

Reasons for determining gestational age 22 weeks or more

15a Was fetus viable?

☐ YES ☐ NO

15b Reasons for the determination

Complete 16a-c only if 15a is yes

16a Was this abortion necessary to
(Check all that apply)

☐ Prevent patient's death

☐ Prevent substantial and irreversible impairment of a major bodily function

16b Reasons for determination

16c Basis for determination

Complete the following items only if a partial birth procedure was performed

17a Was fetus viable?

☐ YES ☐ NO

17b Reasons for determination

Complete 18a-b only if 17a is yes

18a Was this abortion necessary to
(Check all that apply)

☐ Prevent patient's death

☐ Prevent substantial and irreversible impairment of a major bodily function
If so, was the impairment

☐ Physical

☐ Mental

18b Reasons for determination

AMERICAN CIVIL LIBERTIES UNION of KANSAS & WESTERN MISSOURI

Testimony of the American Civil Liberties Union of Kansas and Western Missouri on Kansas Senate Bill 528

Before the Kansas Senate Committee on Public Health and Welfare

Submitted by

Brett J. Shirk
Executive Director

February 15, 2006

AMERICAN CIVIL LIBERTIES UNION OF KANSAS AND WESTERN MISSOURI
3601 MAIN STREET
KANSAS CITY, MO 64111
T/816-756-3113
WWW.ACLUKSWMO.ORG

Senate Public Health & Welfare Committee
Date: Feb. 15, 2006
attachment # 4

American Civil Liberties Union of Kansas and Western Missouri testimony before the Kansas Senate Committee on Public Health and Welfare on Kansas Senate Bill 528

Submitted by Brett Shirk Executive Director of the American Civil Liberties Union of Kansas and Western Missouri

Feb 15th 2006

Chairman Barnett, Vice Chair Schmidt, and Members of the Committee:

On behalf of the American Civil Liberties Union, a non-partisan, non-profit organization, I welcome this opportunity to testify and submit this statement in an informational capacity concerning certain wordings contained in Kansas Senate Bill 528.

As our nation's paramount defender of civil liberties and the Bill of Rights, the ACLU was founded, and remains, an organization that is committed solely to the defense and preservation of the Bill of Rights of the United States Constitution.

It is the opinion of the ACLU that the wording ("detailed reasons for late-term termination of pregnancy") is unconstitutionally vague. This current wording does not define what exactly a late term abortion is. Therefore under this bill, the phrase "late term abortion" would be a matter of opinion. This vagueness dramatically increases the likelihood that this bill could be abused for partisan political reasons.

The American Civil Liberties Union of Kansas and Western Missouri respectfully urges the members of the Kansas Legislature to strongly reconsider the wording of this bill and consider the constitutional ramifications of it's vague wording.

Sincerely,

Brett Shirk

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 O.
7808 Foster
Overland Park, KS 66204
(913) 642-5433

Proponent SB 529

Feb. 15, 2006
Senate Committee on Public Health and Welfare
Chairman James Barnett, M.D.

Good afternoon Chairman Barnett and members of this Committee. I am Kathy Ostrowski, legislative director of Kansans for Life, here to support SB 529, which would promulgate a federal law, the Born Alive Infant Protection Act, and collect statistics.

SB 529 would partner with the federal law that babies born alive during abortion be treated as a member of the human family and receive the full protection of the law.

Last April, the federal Director of Health & Human Services notified relevant entities that they would aggressively enforce federal laws that protect born-alive infants. Withholding medical care from an infant born alive may constitute a violation of the federal Emergency Medical Treatment and Labor Act and the Medicare Conditions of Participation.

While hospitals have been made aware of this law, abortion clinics have not, to our knowledge.

The possibility of babies surviving late term abortions becomes more pertinent here with the late-term center in Wichita. Chemical abortions could also result in a live early birth, though no reports on those numbers are yet available.

KDHE should require reporting of any such born-alive events, including this information:

1) mother's state residence;
2) mother's age;
3) mother's personal disability, if any;
4) number & health outcome of such babies delivered;
5) baby's disabilities if determinable at birth and/ or diagnosed in utero

Such information shall be coordinated with other data collected by the KDHE office of vital statistics and/or the Health Policy authority and will also be made available in the annual summary of abortion statistics.

Thank you for your consideration.

Senate Public Health & Welfare Committee
Date: Feb. 15, 2006

attachment #5

Abortion Facility Accused of Violating Born Alive Protection Act

June 15, 2005 by Maria Vitale Gallagher, http://www.lifenews.com/state1090.html

A late-term abortionist in Kansas is being accused of violating the federal Born Alive Infants Protection Act. A document obtained by WORLD magazine indicates that some babies at George Tiller's Wichita abortion facility are dying after abortions instead of during them.

The document, entitled, "Your Stay at Women's Healthcare Services: Step-by-Step What to Expect, Intrauterine Induction Abortion," states that **"live birth of the fetus" is among the possible complications. It states that responsibility for the medical care and transport of a live-born infant rests on the mother.** But the Born Alive Infants Protection Act of 2000 requires that medical workers offer life-saving aid when a baby survives an abortion.

Joann Armentrout, an administrator with the Wichita facility, claims the abortion center is not violating the law. Armentrout was quoted in WORLD magazine saying, "We've never had a live birth here."

However, Armentrout failed to mention the case of Sarah Brown, a girl with severe disabilities who was adopted and lived for five years after surviving an abortion at the Wichita facility in July of 1993.

Armentrout's statement also contradicts statements made by abortionist LeRoy Carhart last year. Carhart told the Associated Press that during dilation-and-evacuation abortions, "The fetuses are alive at the time of delivery" at least once a month.

The Wichita abortion center is not the only one suspected of violating the Born Alive Infants Protection Act. A 34-year-old woman said her child, known as Baby Rowan, curled up as if he were cold and grabbed her finger with his hand after she delivered him in a toilet at an abortion center in Orlando. Shortly after, the baby died. In deposition testimony, abortionist Randall B. **Whitney has said that born-alive abortions do take place at the Florida facility and staff members make no effort to resuscitate the babies.**

Leavitt promises compliance with federal Born-Alive Infant protection act

WASHINGTON (April 22, 2005) -- The U.S. Department of Health and Human Services (DHHS) today announced certain steps to improve compliance with the Born-Alive Infants Protection Act, a law enacted in 2002 with strong support from National Right to Life.

In a press release, Mike Leavitt, secretary of Health and Human Services, said, "Congress had received testimony that some infants who had been born alive after unsuccessful abortions were left to die. . . . The Act reaffirms the legal principle that all infants born alive are entitled to the full protection of the law. That is a principle I will vigorously uphold as Secretary. . . . We took the first of these educational steps today by notifying relevant entities that we aggressively enforce federal laws that protect born-alive infants. We issued clear guidance that withholding medical care from an infant born alive may constitute a violation of the federal Emergency Medical Treatment and Labor Act and the Medicare Conditions of Participation."

2002- BORN ALIVE INFANT PROTECTION ACT

Public Law 107-207 U.S. Code Title 1, Chapter 1: Rules of Construction Section 8.

"Person", "human being", "child", and "individual" as including born-alive infant

(a) In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words "person", "human being", "child", and "individual", shall include every infant member of the species homo sapiens who is born alive at any stage of development.

(b) As used in this section, the term "born alive", with respect to a member of the species homo sapiens, means the complete expulsion or extraction from his or her mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, or induced abortion.

(c) Nothing in this section shall be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point prior to being "born alive" as defined in this section.

K A N S A S

RODERICK L. BREMBY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

DEPARTMENT OF HEALTH AND ENVIRONMENT

Testimony on Written Report Concerning Abortions (Senate Bill 529)
To
Senate Public Health and Welfare Committee
Presented by Lorne A. Phillips, PhD
State Registrar and Director
Center for Health and Environmental Statistics
Division of Health
Kansas Department of Health and Environment

February 15, 2006

Chairperson Barnett and members of the Senate Public Health and Welfare Committee I am pleased to appear before you today to discuss SB 529.

As proposed, KDHE can't support the bill's passage. The reason is the bill, if enacted, would establish incompatible concepts in reporting vital events.

The department collects extensive information on live births, stillbirths, and abortions. Each of these events is a mutually exclusive pregnancy outcome, each with its own report or certificate. Senate Bill 529, in attempting to add fields to the abortion report to collect information about an attempted abortion wherein the fetus was "born alive", creates a reporting conundrum. The federal Born Alive Act's definition of a born alive fetus is in essence the definition of a Kansas live birth which must be reported under KSA 65-2401 on the birth certificate. This bill, however, would require such an event to also be reported as abortion. This presents an illogical situation as by definition, one can't categorize the same occurrence as two distinct outcomes.

Additionally, all of the information this bill seeks to collect on this live birth, except for the mother's disabilities, is presently reported on the live birth certificate. This information could be more effectively obtained by creating a separate paper reporting form for attempted abortions that result in live births. The bill's language should be modified to require providers to file this new report and also a live birth certificate. This approach could be implemented at no cost.

I thank you for the opportunity to appear before the Senate Public Health and Welfare Committee and will gladly stand for questions the committee may have on this topic.

Attachment: VS 213 Kansas Abortion Reporting Form

Senate Public Health & Welfare Committee

DIVISION OF HEALTH
CENTER FOR HEALTH AND ENVIRONMENTAL STATISTICS
CURTIS STATE OFFICE BUILDING, 1000 SW JACKSON ST., STE. 110, TOPEKA, KS 66612-2221
Voice 785-296-1415 Fax 785-296-8869

Date: Feb. 15, 2006
Attachment #6

TYPE
C
PRI
PERMANENT
INK

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
Office of Health Care Information
Curtis State Office Building, Suite 130
1000 SW Jackson
Topeka, Kansas 66612-1354
785-296-8627

Report of Induced Termination of Pregnancy

State File Number

INSTRUCTIONS SEE HANDBOOK

1. Provider Identification Number 00000

2. Patient ID Number

3. Age on Last Birthday

4. Married ☐ Yes ☐ No

5. Date of Pregnancy Termination ☐☐ Month ☐☐ Day ☐☐☐☐ Year

6a. Residence *US State or Country*

6b. County

6c. City or Town

6d. Inside City Limits ☐ Yes ☐ No

7a. Hispanic Origin
(Check the box or boxes that best describes whether the individual is Spanish, Hispanic, or Latina, or not Spanish, Hispanic, or Latina)

- ☐ Not Spanish, Hispanic, or Latina
- ☐ Mexican, Mexican American, or Chicana
- ☐ Puerto Rican
- ☐ Cuban
- ☐ Central American
- ☐ South American
- ☐ Other Spanish, Hispanic, or Latina (specify) _____
- ☐ Unknown

7b. Ancestry
(Enter the name of the country that best describes the heritage or origin of the individual)

8. Race
(Check one or more races to indicate what the individual considers herself to be

- ☐ White
- ☐ Black or African American
- ☐ American Indian or Alaska Native

Principal Tribe(s)_____

- ☐ Asian Indian
- ☐ Chinese
- ☐ Filipino
- ☐ Japanese
- ☐ Korean
- ☐ Vietnamese
- ☐ Other Asian (specify) _____
- ☐ Native Hawaiian
- ☐ Guamanian or Chamorro
- ☐ Samoan
- ☐ Other Pacific Islander (specify) _____
- ☐ Other (specify) _____
- ☐ Unknown

9. Education
(specify only highest grade completed)

- ☐ 8th grade or less
- ☐ 9th-12th grade no diploma
- ☐ High school graduate/GED
- ☐ Some College - no degree
- ☐ Associate degree
- ☐ Bachelor's degree
- ☐ Master's degree
- ☐ Doctorate
- ☐ Unknown

10. Date Last Normal Menses Began ☐☐ Month ☐☐ Day ☐☐☐☐ Year

11. Clinical Estimate of Gestation *(Weeks) (1)*

12. Previous Pregnancies
(Enter number or zero in every section)

Live Births		12c. Previous Induced Abortions	12d. Spontaneous Terminations (Miscarriages, Fetal Deaths)
12a. Now Living	12b. Now Dead		

13 TERMINATION PROCEDURES

13a Procedure that terminated pregnancy

(Check only one)

- ☐ Suction Curettage
- ☐ Sharp Curettage
- ☐ Dilation & Evacuation
- ☐ Medical Procedure I (Mifepristone)
- ☐ Medical Procedure II (Methotrexate)
- ☐ Intra-Uterine Prostaglandin Instillation
- ☐ Hysterotomy
- ☐ Hysterectomy
- ☐ Digoxin/Induction
- ☐ Partial Birth (2)
- ☐ Other (Specify) _____

13b Additional procedures used for this termination, if any

(Check all that apply)

- ☐ Suction Curettage
- ☐ Sharp Curettage
- ☐ Dilation & Evacuation
- ☐ Medical Procedure I (Mifepristone)
- ☐ Medical Procedure II (Methotrexate)
- ☐ Intra-Uterine Prostaglandin Instillation
- ☐ Hysterotomy
- ☐ Hysterectomy
- ☐ Digoxin/Induction
- ☐ Partial Birth (2)
- ☐ Other (Specify) _____

1 If clinical estimate of gestational age is 22 weeks or more, complete reverse side of form
2 If Partial Birth Procedure as defined by KSA 65-6721 is used, complete reverse side of form

VS 213 Rev. 1/2005

6-2

Complete the following items only if the clinical estimate of gestational age is 22 weeks or more

Reasons for determining gestational age 22 weeks or more

15a Was fetus viable?

☐ YES ☐ NO

15b Reasons for the determination

Complete 16a-c only if 15a is yes

16a Was this abortion necessary to
(Check all that apply)

☐ Prevent patient's death

☐ Prevent substantial and irreversible impairment of a major bodily function

16b Reasons for determination

16c Basis for determination

Complete the following items only if a partial birth procedure was performed

17a Was fetus viable?

☐ YES ☐ NO

17b Reasons for determination

Complete 18a-b only if 17a is yes

18a Was this abortion necessary to
(Check all that apply)

☐ Prevent patient's death

☐ Prevent substantial and irreversible impairment of a major bodily function

If so, was the impairment

☐ Physical

☐ Mental

18b Reasons for determination

Senate Public Health
And Welfare Committee
February 15, 2006

6301 ANTIOCH • MERRIAM, KANSAS 66202 • PHONE/FAX 913-722-6633 • WWW.KSCATHCONF.ORG

TESTIMONY IN SUPPORT OF SENATE BILLS 528 & 529

Chairman Barnett and members of the committee:

Thank you for the opportunity to submit testimony in support of Senate Bills 528 and 529 both of which relate to the reporting of statistical data regarding abortion in Kansas. My name is Mike Farmer and I am the Executive Director of the Kansas Catholic Conference the public policy office of the Catholic Church in Kansas.

Abortion is legal through all nine months of pregnancy. The Supreme Court in its rulings in *Roe v. Wade* and *Doe v. Bolton* guarantees that no significant legal barriers of any kind whatsoever exist today in the United States for a woman to obtain an abortion for any reason during any stage of her pregnancy.

The Kansas Catholic Conference representing the Bishops of Kansas and joining with the Bishops of the United States unequivocally believe that: "Human life is a gift from God, sacred and inviolable. Because every human person is created in the image and likeness of God, we have a duty to defend human life from conception until natural death and in every condition." (***Faithful Citizenship***, a Statement by the Administrative Committee of the USCCB p.17, 2003). We as Catholics believe that abortion, the deliberate killing of a human being before birth, is never morally acceptable.

Senate Bills 528 and 529 are not about restricting abortion, they are about gaining knowledge. From Kansas statistics we already know that over half the abortions in Kansas are performed on women who have had one or more abortions, and nearly half are done on non-Kansas residents. There are many things we do not know, like the reasons so many women come to Kansas seeking late-term abortions.

According to the limited records that are kept, over one-half of all post-22 week abortions are performed on viable babies. Shouldn't there be a record as to the reasons these abortions are being performed? Current Kansas law states that an abortion at this stage on a viable baby can only be performed if "…necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function." However records indicate that in every instance from 1998 – 2002, none of these abortions were performed to prevent the death of the mother. That being the case, then

Senate Public Health & Welfare Committee
Date: Feb. 15, 2006
attachment #7

what were the major bodily functions to which the continuation of these pregnancies would have caused substantial and irreversible impairment?

Over 1 million abortions being performed every year in this country since 1973 should cause each of us grave concern. Problems can only be resolved with factual information. Sound public policy can only be made with accurate data. The Kansas Catholic Conference supports the intent in both Senate Bills being heard today. We urge each of you to act in the best interests of all Kansans by recommending that these bills be passed favorably out of your committee.

Thank you,

Michael P. Farmer
Executive Director