Approved: April 2, 2008
Date

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Arlen Siegfreid at 1:30 P.M. on February 19, 2008, in Room 313-S of the Capitol.

All members were present except:
Representative Mike Peterson - Excused

Committee staff present:

Dennis Hodgins, Kansas Legislative Research Department
Mike Heim, Revisor of Statutes Office
Jason Long, Revisor of Statutes Office
Jeannie Dillon, Committee Assistant

Conferees:
Representative Lance Kinzer
Dr. Brian Russell, licensed psychologist and attorney
Michelle Armesto Berge, private citizen
Kay Lyn Carlson, LMSW, Director of Abortion Recover Center
Patty Lewis, R. N. Founder of Alexandra's House Perinatal Hospice
Kathy Ostrawski, Legislative Director, Kansans for Life

Others attending:
See attached list.

Chairman Siegfreid opened the meeting for bill introductions. Representative Don Dahl came before the Committee to request a bill for a day to honor the Civilian Conservation Corps. Moved by Representative Hawk, seconded by Representative Loganbill, without objection, the bill was accepted.

Hearing no more requests for bill introductions, the Chairman opened the hearing on **HB 2615 - Abortion; late term abortion records; reporting** and **HB 2736 - Amendments to late-term abortion laws; reporting requirements; waiver of parental notice; civil remedies for violations of law.**

The Chairman invited Mike Heim, Revisor of Statutes, to the podium for a review of the Special Committee on Federal and State Affairs interim report on late term abortions. Mr. Heim distributed information and reviewed details on the recommendations of the Committee to draft a bill giving Kansas Department of Health and Environment rule and regulation authority specifically to modify late term abortion forms. This form would include a section for a specific clinical diagnosis and a reason and basis for that diagnosis. (Attachment 1)

Jason Long, Kansas Revisor of Statutes, presented a briefing on **HB 2736.** Mr. Long explained that the bill makes several amendments to the laws concerning late-term abortions. Mr. Long gave detailed testimony on each aspect to the bill. (Attachment 2)

Representative Lance Kinzer addressed the Committee as a proponent of **HB 2736**. In his testimony, Representative Kinzer stated that the intent of this legislation is to advance the principles of human dignity, compassion and the rule of law, and all Kansans have a right to expect that existing laws limiting late term abortions in Kansas will be followed and enforced. He further stated that women should have the right to accurate medical information when making a decision regarding abortion. He outlined a number of provisions included in the bill. (Attachment 3)

Dr. Brian Russell, Licensed Kansas Psychologist and Attorney, gave testimony supporting **HB 2736.** Dr. Russell stated that he had grave concern about physicians using psychiatric diagnoses to justify the performance of late-term abortions in Kansas. He stated that he believes that **HB 2736** is sound public policy and should be enacted without delay, with the addition of a provision requiring that women seeking late-term abortions for psychological reasons be informed specifically of the potential psychological

consequences of the abortion procedures so that those women are able to factor both their current and anticipated psychological experiences into their decisions. (Attachment 4)

The Chair welcomed Michelle Armesto Berge to the Committee. Ms. Berge shared her experience at an abortion clinic and explained why **HB 2615** and **HB 2736** would have prevented her from aborting her baby. She outlined the following provisions that would have helped her make a more informed decision:

- Women can choose to see the ultrasound and hear the fetal heart tone
- Give women a written diagnosis of viability and period of reflection preceding a late-term abortion and information about hospice and help for delivery of seriously challenged fetus
- Clinics post a sign onsite warning coerced abortions are illegal and informing victim how to contact law enforcement.
- Require the Healing Arts Board to revoke medical license for breaking late-term ban.
- Update the Right to Know booklet

Ms. Berge said that if any of these regulations had been in place, at the time of her abortion, she doubted that she would have had the procedure done. (Attachment 5)

Testimony supporting **HB 2736** was given by Kay Lyn Carlson, Licensed Master Social Worker and Director of Abortion Recovery Center. She specializes in post-abortion counseling and recovery for those who have suffered from an abortion. She stated that the women of Kansas deserve to have all the information made known to them before they make a life changing decision. (Attachment 6)

Patty Lewis, Registered nurse and founder of Alexandra's House Perinatal Hospice, approached the Committee to present testimony regarding hospice and refuge for abandoned babies. Ms. Lewis stated that the grief associated with a natural death was similar to the grief associated with abortion, for families who chose this method of dealing with a baby with birth defects. The preconceived premise was that the abortion would resolve the suffering. (Attachment 7)

Kansans for Life was represented by Kathy Ostrawski, Legislative Director, who spoke in favor of passage of **HB 2736**. Ms. Ostrawski stated that the bill will help the state enforce abortion law, enhance informed consent and enact provisions of the Teen Protection Act which passed the House in 2006. An informational notebook was submitted to the Committee members by Ms. Ostrawski. (Attachment 8)

The Committee members asked questions of the conferees.

After all questions were answered, the Chairman informed the Committee that there were two written testimonies on bill **HB 2775** submitted to them in their packets. The meeting was adjourned. The next meeting is scheduled for February 20, 2008.

Written Testimony submitted:
Judy Smith, Concerned Women for America (Attachment 9)
Beatrice Swoopes, Kansas Catholic Conference (Attachment 10)

HOUSE FEDEDERAL & STATE COMMITTEE
GUEST LIST

DATE: ~~1/29/08~~ 2/19/08

NAME	REPRESENTING
Kathy Ostrowski	Kansans for Life
Cindy Hellman	Mainstream Coalition
Mike Burkhart	PKT
THOMAS WITT	KEC
BEATRICE SWOOPES	KANSAS CATHOLIC CONFERENCE.
Amanda Stone	Rep. Pottorff
Holly Weatherford	PPKM
Pam Crandall	PRCM
Joab Sbanda	Washburn Nursing School
Lindsey Douglas	Hein Law Firm
Barbara Halzmark	National Council of Jewish Women
Katie Farmer	MAINStream Coalition

Report of the Special Committee on Federal and State Affairs to the 2008 Kansas Legislature

CHAIRPERSON: Representative Arlen Siegfreid

VICE-CHAIRPERSON: Senator Pete Brungardt

RANKING MINORITY MEMBER: Representative Annie Kuether

OTHER MEMBERS: Senators Anthony Hensley and Roger Reitz; and Representatives Owen Donohoe, Oletha Faust-Goudeau, Michael O'Neal, and Jene Vickrey

STUDY TOPICS

- Late Term Abortions
- Regulation and Oversight of Amusement Rides
- Public Smoking in Kansas

December 2007

Special Committee on Federal and State Affairs

Late Term Abortions

Conclusions and Recommendations

After extensive testimony, the Committee recommends that a bill be drafted giving Kansas Department of Health and Environment rule and regulation authority, specifically to modify late term abortion forms, including adding to the form a section for a specific clinical diagnosis and a reason and basis for that diagnosis.

Proposed Legislation: The Committee recommends the introduction of two bills.

Background

The Legislative Coordinating Council (LCC) asked that the Committee review the recent U.S. Supreme Court ruling on late term abortions as it related to Kansas law and receive a briefing from the Kansas Attorney General regarding Kansas abortion law. Review the proviso attached by the House to the Omnibus Appropriation Bill regarding late term abortions. Examine the original intent of the Kansas late term abortion statutes to determine if any additional clarifying language is necessary.

Committee Activities

Review of U.S. Supreme Court Ruling in *Gonzales v. Carhart*

Mike Leitch, Deputy Attorney General, State of Kansas Office of the Attorney General, explained to the Committee that the *Carhart* case was brought to challenge the constitutionality of the 2003 Federal Partial-Birth Abortion Ban Act. Dr. Carhart and others filed suit against the United States Attorney General seeking to strike down the law and to enjoin Attorney General Gonzales from enforcing it.

According to Mr. Leitch, the Federal Partial Birth Abortion Ban Act was limited and well-defined and prohibited one specific type of abortion procedure. It prohibited a doctor from performing the procedure known as intact dilation and extraction or D and X. These procedures amount to a very small percentage of post-viability abortions. Most post-viability abortions are done with a procedure known as dilation and evacuation or D and E.

The federal statute provides that "(a) Any physician who...knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than 2 years, or both. This subsection does not apply to a partial-birth abortion that is necessary to save the *life* of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself..."

The Act had specific definitions:

The term "partial-birth abortion" was defined to mean "an abortion in which the person performing the abortion –

(A) deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of

breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

(B) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus..."

In the Attorney General's opinion, this decision has little impact in Kansas. As Justice Scalia commonly writes, the meaning of cases is limited by the facts they presented. The facts in *Carhart* involved only a ban on partial birth abortion–one procedure where others were available.

In addition, the Deputy stated that there are two principal reasons why the decision has little impact on Kansas law. First, Kansas already prohibits partial birth abortions in KSA 65-6721. And while that section does contain an exception for the life and health of the mother, to the Attorney General's knowledge, no one in Kansas performs partial birth abortions. Thus, adopting legislation that eliminates the exception would not affect anything happening in Kansas.

House Proviso; Role of Kansas Department of Health and Environment; and Kansas State Board of Healing Arts

During the 2007 Session the Legislature added a proviso to Senate Bill No. 357 which reads as follows:

"Section 65. (a) On and after the effective date of this act, no expenditures shall be made from moneys appropriated from the state general fund or any special review fund for fiscal year 2008 for the department of health and environment division of health as authorized by chapter 142 or chapter 216 of the 2006 Session Laws of Kansas, by 2007 House Bill No. 2368, or by this or other appropriation act of the 2007 regular session of the legislature, except upon the approval of the director of the budget acting after ascertaining that the department of health and environment has established and implemented procedures requiring each report by a physician pursuant to subsection (b)(4) of KSA 65-6703, and amendments thereto, to specify that diagnosis and either the condition necessitating abortion to preserve the life of the pregnant woman or the substantial and irreversible impairment of a major bodily function of the pregnant woman which continuation of the pregnancy would case: (b) The terms used in this section shall have the meanings provided in KSA 65-6701, and amendments thereto."

The Governor line-item vetoed this section in its entirety and wrote in her veto message "...The questions required by this proviso are open-ended and request detailed information on a patient's medical condition. Rather than collecting sound data that is able to be properly analyzed and protected, this proviso is likely to have little substantive effect, yet opens up patients' private medical information to public viewing. This measure runs counter to Kansans' strong belief in the importance of medical privacy, and therefore I veto this proviso."

Representative Lance Kinzer, the author of the proviso, informed the Committee that Kansas Department of Health and Environment (KDHE) statistics are less than helpful in getting at whether the abortion was necessary because rather than report, as the law requires, the reasons and basis for such determination, the statistics provided merely restate the statutory language offering no clue as to the actual medical diagnosis used by the physician to justify the abortion. He went on to state that this was the reason that he offered the amendment to the bill; and it was his hope that with clearer reporting, the State would increase compliance with existing law and provide the Legislature with the information necessary to implement public policies to address the causes of and reduce the need for late term abortions. Representative Kinzer said he believes the Legislature should either amend KSA 65-445

to clearly requires a diagnosis or give KDHE more authority to adopt rules and regulations to adjust the forms. He stated that he had a hard time understanding how, if KDHE had sufficient authority under rules and regulations to create the form in the first place, why the Agency does not have sufficient regulatory authority to alter the form.

Greg Crawford, Chief of Vital Statistics Data Analysis for the Kansas Department of Health and Environment, discussed the abortion reporting role of the Department. He stated that he thought that the Department has tried to enforce all of the laws the Legislature had given it, and said that of the 30 cases reviewed by the Legislative Division of Post Audit, the audit indicated that, based on the facts given them, the outcome seemed reasonable. He concluded by saying that one of the functions if KDHE is the collection and reporting of statistics and the other is the dissemination of information. He commented that in collecting the data, the Department makes no judgment on the information obtained from the form and the Department would have no opinion on what to put on the abortion reporting form.

It was pointed out that the partial birth abortion form has a box indicating a mental health exception, but does not have a mental health exception box for late term abortions. Mr. Crawford said he thought that the only thing the form recognizes is that it collects only the information that is required by statute as determined by Agency attorneys.

Ms. Susan Kang, Kansas Department of Health and Environment, stated that because KDHE does not administer or supervise abortions, the Agency has no position on late term abortions. She stated that KDHE's functions are narrow in scope, especially with respect to the collection of data that the Agency receives directly from physicians.

Mr. Larry Buening, Executive Director of the Kansas State Board of Healing Arts, stated that the Board's responsibility with regard to the state abortion laws involves both the Board's Investigation and Disciplinary Program and the Enforcement and Litigation Program. In conducting investigations, the Board's focus is whether any provision of the Healing Arts Act has been violated. KSA 65-2836(b) specifies that a license may be revoked, suspended or limited, or the licensee may be publicly or privately censured upon a finding that "(b) [T]he licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency."

Mr. Buening explained that the Board carries out its responsibility in the Investigation and Disciplinary Program by reviewing each complaint received. Each submission of adverse information received is considered to be a complaint. Every complaint that relates to an abortion or a practitioner who performed an abortion is assigned for investigation. If the complaint involves standard of care issues, the case is sent to a Review Committee. The Review Committees are created by statute (KSA 65-2840c) and are comprised of members who are in the same branch of the healing arts and who are not members of the Board. Even if the review committee recommends that the standard of care was met, a report of all cases is submitted to the Disciplinary Panel for its review and consideration.

In implementing KAR 100-25-2 and 100-25-3, the Board asked on both the 2006 and 2007 renewals whether licensees performed office-based surgery. All practitioners who responded in the affirmative have had their offices inspected for compliance with the rules and regulations.

Mr. Buening explained that when a reviewer gets into the mental health part of an abortion complaint, it becomes much more difficult for the Board or anybody to determine in a retrospective

review of the two physicians' opinions, whether they were proper. He stated the mental state of the individual is not going to be the same in a day, week, or month after the abortion was performed. He said he was not a physician, and he could not say when a person can question whether a mental health diagnosis was valid; every case must be determined on the individual facts and what the record reflects.

Ms. Shelly Wakeman of the Kansas State Board of Healing Arts explained that any Board investigation involving the care and treatment of a patient would look into the diagnosis that was made and the treatment provided, and determine whether or not the care and treatment met the standard. She said a psychiatrist is not the only physician who can treat a patient for mental health and stated that antidepressants are prescribed more by family practice doctors than by psychiatrists. She said any physician who seeks to practice psychiatry would be required to be competent in that area.

Ms. Wakeman further explained that any complaint made on a specific case of a fetus post 22 weeks would require a finding by the physician that the patient would suffer major bodily harm and would require the diagnosis to specify that bodily harm.

Original Intent of the Kansas Late Term Abortion Statutes

Mr. Tim Carmody, the former Chairman of the Conference Committee that adopted the abortion statute in 1998, explained that there were basically three parts to the bill:

- Prohibiting assisting suicide prohibition;
- Restricting late term abortion; and
- Banning on partial birth abortion.

Mr. Carmody stated that members of the Conference Committee and by extension, leaders of the Senate and House and Governor's Office, came to consensus on the following points:

- The law that was passed would not be seen or developed as a test case merely for the purpose of testing the limits through the courts. The law would not be limited, if it was limited at all, to simply a ban on partial birth abortion. The legislators and Governor recognized that was only one type of procedure and was not the sole basis of this law. The law would set viability as the dividing line between what could not be regulated and what might be regulated. So "viability" and not "late term" became the phrase used in statute.

- The only exceptions to an outright ban on post viable abortions would be those constitutionally required as exceptions, as the Conference Committee understood the court decision defined.

He observed that enforcement of the laws depends on the good faith efforts of the prosecutor, whether that be a district attorney, county attorney, or attorney general. He stated that it depends on the good faith of the physicians acting within the scope of their practice, and on the courts applying a reasonable interpretation consistent with legislative intent.

Other Concerns Heard by the Committee

Dr. Brian Russell, psychologist and attorney, expressed concern that mental diagnoses are being made without the proper skill and care to establish that the conditions diagnosed exist. He further stated that it was his concern that practitioners who are performing these procedures are doing so without exercising the proper skill and care to provide the follow-up mental health treatment that women who present in profoundly debilitating mental conditions are certain to need. He further stated that anxiety disorder, adjustment disorder, and single episodic depression were the most treatable conditions in psychology and psychiatry, and people recover from these conditions. In answer to a question, Dr. Russell explained that suicidal ideation is a

symptom that a person can experience. Usually, such a person would be psychotic, depressed, or both. Some people who are neither of those things, such as someone who is in the last stages of life, may consider killing themselves and they are neither psychotic nor depressed.

Ms. Jennifer Girox, stated her opinion that there has been a complete breakdown in the rule of law in Kansas in her estimation. She challenged Kansas to start erring on the side of life.

Ms. Mary Balch, Legislative Director, National Right to Life, recommended a change in statute that would allow the use of civil remedies for enforcement of Kansas law. Women upon whom an unlawful abortion was performed or attempted would be given standing to seek an injunction against future unlawful abortions by the same defendant, as would parents of minors upon whom an unlawful abortion was performed or attempted. Ms. Balch explained that, in her opinion, providing an objective, malpractice-type standard and enforcing it with civil remedies offer the best way to enforce of Kansas statutes.

Dr. John F. Evans, perinatologist, stated that there were two conditions when the College of Obstetrics and Gynecology allows termination beyond a 21- or 22-week cutoff, and they are if the baby's brain is not developing or if kidneys are absent. He also expressed concern about the 21-week cutoff and would like to have consideration given, not to the gestational age, but to the conditions that might necessitate medical intervention.

Mr. Troy Newman, President of Operation Rescue, stated that the law was adequate to protect women and their viable babies. However, he did urge the Committee to strengthen the ability of law enforcement to enforce the laws and create stiff punishments for those who disobey the law.

Ms. Wendy Wright, Concerned Women for America, noted that 98 percent of the third trimester abortions performed in Kansas are on out-of-state women. She also noted that Dr. George Tiller markets his late term abortion business nationally and internationally. Ms. Wright proposed that the Legislature make sure that current laws are being enforced, rather than adding to the law.

Dr. Ted Williams testified that the doctor performing the late term abortion must report the determinations, the reason for such determinations, and the basis for the determinations that an abortion is necessary to preserve the life of the pregnant woman or that the continuation of the pregnancy will "cause a substantial and irreversible impairment of a major bodily function of the pregnant women." It is his understanding that a specific diagnosis justifying the need for the abortion is not required on the form provided by KDHE. He stated that in his experience maternal mental illness rarely, if ever, would "cause substantial and irreversible impairment of a major bodily function" that would justify a late term abortion.

Ms. Michelle Arnesto Berg testified about her abortion experience at Dr. George Tiller's office and the lasting effects the decision has had on her life.

Ms. Jo An Van Metter stated her concerns about conversations and actions that diminish the right of women to make decisions about their reproductive health in consultation with their physicians. She stated that whatever the reasons for an abortion, those reasons will never satisfy those who oppose abortion. In addition, she stated that women have a constitutional right to make decisions involving their reproductive health. She noted that women have the right to late term abortions if life or health is threatened and that, as of now, health includes mental health. In conclusion she noted that the fetus is being protected until born, but a child has no guarantee of health insurance, sufficient

schooling, a home or adequate nutrition, all of which should represent a minimal standard of care for children.

Julie Burkhart, Chief Executive Officer of Pro Kan Do, noted the organization is pro-choice and believes the decision about any abortion should be left to a woman and her doctor. She reminded the Committee that privacy is not a "trump card" but is a constitutional right.

Kathy Ostrowski, Legislative Director for Kansans for Life, testified that Attorney General Paul Morrison denied that KSA 65-6703 requires a defensible reason and basis to be reported. She stated that legislation, including provisos, can cause KDHE to obtain valid information. She said that if valid, legal, medical reasons were reported, and practitioners truly faced loss of licenses, the number of viable baby abortions would be minimal, which was the original intent in 1998.

A DVD of an interview with Dr. Paul McHugh about his contract with former Attorney General Phill Kline to view some of the files which Mr. Kline had obtained about late term abortions performed in Kansas and give expert opinion about these files. In addition, Julie Burkhart provided a DVD of interviews of two women and their husbands who had experienced abortions in Kansas. Senator Hensley and Representative Kuether objected to the viewing of the DVDs because the Committee could not ask questions of the individuals giving testimony.

Conclusions and Recommendations

After extensive testimony, the Committee recommends that a bill be drafted giving Kansas Department of Health and Environment rule and regulation authority, specifically to modify late term abortion forms, including adding to the form a section for a specific clinical diagnosis and a reason and basis for that diagnosis.

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KANSAS LEGISLATURE

Legal Consultation—
Legislative Committees and Legislators
Legislative Bill Drafting
Legislative Committee Staff
Secretary—
Legislative Coordinating Council
Kansas Commission on
Interstate Cooperation
Kansas Statutes Annotated
Editing and Publication
Legislative Information System

Briefing on HB 2736 - Late-term Abortion Law Amendments

Jason B. Long
Assistant Revisor
Office of Revisor of Statutes

February 19, 2008

House bill 2736 makes several amendments to the laws concerning late-term abortions. First, under K.S.A. 65-445(c) the bill would allow information obtained by the secretary of health and environment, including identification of physicians and medical care facilities reporting to the secretary under this section, to be disclosed to district and county attorneys in addition to the state board of healing arts and the attorney general. The current statutory requirement that this information could only be disclosed upon a showing of reasonable cause to believe a violation of the law has occurred and only for the purposes of disciplinary action or a criminal proceeding would still apply.

HB 2736 would also require the KDHE's annual report on abortions performed in Kansas to include the information that is required to be reported to KDHE under K.S.A. 65-445, except that information that is deemed confidential pursuant to the statute. New subsection (g) in K.S.A. 65-445 would require SRS to publish an annual report on the number of reports of child sexual abuse received by SRS from abortion providers. The name of the victim and any other identifying information would be kept confidential and would not be included in the report.

Second, section 2 of HB 2736 amends K.S.A. 65-2836(c) such that on and after July 1, 2008, a conviction for a misdemeanor under K.S.A. 65-6703 would be grounds for revocation,

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suspension or limitation of a physician's license, or for censure of the physician, or denial of an application for a license.

Section 3 makes several amendments to K.S.A. 65-6703. The bill would require that at least 30 minutes prior to the abortion a written copy of the documented referral and the abortion-performing physician's determination that the abortion is necessary to preserve the life of the woman or prevent substantial and irreversible impairment of a major bodily function must be given to the woman. Also, the name of the referring physician would be required to be included in the report to KDHE required by K.S.A. 65-6703(b)(4).

New subsections (I) and (j) in section 3 would provide a civil cause of action for injunctive relief and monetary damages, respectively, for abortions performed in violation of K.S.A. 65-6703. The following people would have standing to seek an injunction against the abortion provider: (1) the woman upon whom the abortion was performed, is about to be performed or attempted to be performed; (2) a spouse, sibling, parent or grandparent of the woman; (3) the parent or legal guardian of the woman if she is a minor; and (4) any public official with appropriate jurisdiction to prosecute or enforce the laws of this state. Under the bill the woman upon whom the abortion was performed, the father, if he was married to the woman at the time the abortion was performed, and the parents or legal guardian of the woman, if she was a minor at the time of the abortion, would have standing to bring a lawsuit for monetary damages. The bill would allow damages for injuries suffered, statutory damages equal to three times the cost of the abortion and reasonable attorney fees. Additionally, new subsection (k) would provide that prosecutions for violations of K.S.A. 65-6703 may be brought by the attorney general or the district or county attorney for the county in which either the violation occurred or in which the woman upon whom the abortion was performed is a resident.

Next, section 4 of the bill would amend K.S.A. 65-6704 to require that the minor receiving counseling pursuant to this section provide proof of identification and verification of such minor's state of residence. Also, any individual accompanying the minor must also provide proof of identification and make a written declaration as to such individual's relationship to the minor and to the known or probable father of the fetus.

The bill amends K.S.A. 65-6705 regarding abortions performed on unemancipated minors. If the minor objects to giving notice of the intent to perform an abortion to such minor's parents or legal guardian, then the bill would require the minor to petition a court prior to the performance of the abortion for a waiver of the notice requirement. Currently the statute provides that "the minor *may* petition" a court for a waiver. Also, if a minor chooses to petition for a waiver of notice, the bill provides that neither the counselor nor any person employed by the abortion provider would be allowed to accompany or assist the minor in the court proceedings.

New subsection (m) would require that after rendering a decision on the matter the court must then compile the judicial record of the case, and give a copy of the judicial record to the minor and send a copy to the abortion provider for inclusion in the minor's medical record. Additionally, the bill would require the chief judge of each judicial district to send annual reports to KDHE regarding information on cases initiated in the court pursuant to K.S.A. 65-6705. This would report would include: (1) the number of petitions filed; (2) the number of waivers granted; (3) the reasons for granting those waivers; (4) any actions taken to protect the minor from domestic or predator abuse; (5) each minor's state of residence, age and disability status, if any; and (6) the gestational age of the fetus. This information would be reported in a manner that would not identify any of the minors who had petitioned the court.

New subsection (o) in K.S.A. 65-6705 would provide a civil cause of action for the parents or legal guardian of the minor for damages incurred as a result of a violation of K.S.A. 65-6705. The bill would provide for monetary damages for injuries suffered, the cost of subsequent medical treatment, statutory damages equal to three times the cost of the abortion and reasonable attorney fees.

Under new subsection (p) if during a judicial hearing on a petition for a waiver of notice the court suspects physical, mental, emotional or sexual abuse against the minor, then the court must report those suspicions to the appropriate authorities in accordance with K.S.A. 38-2223(c).

Next, section 6 amends K.S.A. 65-6709 to require that the abortion provider, at least 30 minutes prior to the abortion, provide the woman with the opportunity to view the ultrasound image of the fetus if ultrasound imaging equipment is used in performing the abortion, and the opportunity to listen to the heartbeat of the fetus if heart monitoring equipment is used in

performing the abortion. The physician is required to certify such offers were made and whether they were accepted or rejected by the pregnant woman, and such certification is to be kept in the woman's medical record for at least 10 years. K.S.A. 65-6709 would also be amended to require any abortion provider that provides abortions for any reason other than to prevent the death of the pregnant woman to post the notice set forth in the bill regarding unlawful abortions.

Finally, K.S.A. 65-6710 is amended to require that the materials to be published under this section be updated on an annual basis.

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

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COMMITTEE ASSIGNMENTS
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JUDICIARY
FEDERAL AND STATE AFFAIRS

LANCE KINZER
REPRESENTATIVE, 14TH DISTRICT

TESTIMONY REGARDING HB2736

At its best the pro-life movement in the United States has stood for the bedrock principles of human dignity, compassion and the rule of law. The intent of this legislation is to advance each of these important values. All Kansans have a right to expect that existing laws limiting late term abortions in Kansas will be followed and enforced. Furthermore, women should have the right to accurate medical information when making a decision regarding abortion.

The bill before you today includes a number of provisions designed to strengthen enforcement of existing late term abortion laws. The bill further attempts to protect minors who are seeking abortions from coercion and expands the relevant information that that must be provided to women who are considering abortion.

1) Requiring abortion providers who use ultrasound equipment to offer the woman the chance to view the ultrasound image of her unborn child.
2) Allowing District and County Attorneys, upon a showing of reasonable suspicion of the commission of a crime, to receive abortion reporting data in the possession of the Department of Health and Environment (KDH&E).
3) Grants standing to Kansas citizens to bring a mandamus action in the event KDH&E fails to issue the public abortion data report required by law.
4) Requires SRS to report, in a nonidentifying fashion, the number of reports of child sexual abuse received by SRS from abortion providers.
5) Directs the Board of Healing Arts to revoke the license of any physician convicted of a violation of K.S.A. 65-5703, the Kansas late term abortion law, unless 2/3 of the members of the Board vote to allow said physician to continue to practice.
6) Requires that at least 30 minutes prior to the abortion, a woman seeking a late term abortion be provided with a copy of the referring physician's referral, and a copy of the abortion provider's written determination regarding fetal viability, and/or the reason and basis justifying the abortion under Kansas law.
7) Grants standing to the woman and other family members, as well as law enforcement, to seek injunctive relief against any person who is violating or about to violate Kansas late term abortion law.
8) Grants standing to a woman, her husband or the parents of a minor, to bring a civil action for damage against any person who performs an abortion in violation of Kansas late term abortion law.
9) Establishes that prosecution for violation of Kansas late term abortion law can be brought by the Attorney General, the District or County Attorney where the violation occurred, or the District or County Attorney for the woman's county of residence.
10) Requires proof of identification by an adult accompanying a minor to an abortion clinic under K.S.A. 65-6704, the Kansas minor informed consent law.
11) Extends the period for which an abortion provider must maintain medical records.
12) Clarifies K.S.A. 65-6705, the Kansas parental consent law, to require that a custodial parent receive notice of the intent to perform an abortion in the absence of a judicial by-pass.
13) Requires that abortion providers make a report to law enforcement if a minor indicates that the father of the unborn child is her father or step-father.
14) Requires that where a judicial by-pass is granted the court record of said by-pass be placed in the medical record of the minor.
15) Requires each Judicial District to make an annual report to KDH&E, in non-identifying fashion, of the number of judicial by-pass petitions granted in that Judicial District.
16) Grants standing to parent or guardian of a minor to seek civil damages where a violation of Kansas parental notification law occurs.

7) Requires abortion providers to post a notice setting forth a woman's right not to be forced to have an abort[illegible] to seek the assistance of law enforcement to receive protection from abuse, and to change her mind regarding having an abortion at any point prior to the procedure.

In considering any change in current Kansas abortion law it is important to first understand current Kansas law. Under Kansas law an unborn child is viable if it is "capable of sustained survival outside the uterus without the application of extraordinary medical means." K.S.A. 65-6701 (k). K.S.A. 7603-(e) further defines viability as "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." Under Kansas law an unborn child who an abortion provider has determined to be viable can not be aborted unless, two doctors determine that an abortion is necessary to preserve the life of the mother or that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman. K.S.A 65-6703(b)(4).

Kansas law further requires that a physician who aborts a viable unborn child must report the reasons and 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. K.S.A 65-6703(b)(4).

I think its crucial in analyzing this statue to recognize the way in which the substantive requirements and reporting requirements found in the statute interrelate. These various requirements work hand in hand to create a clear and systematic approach to the implementation of our Kansas post viability abortion law.

If we look at K.S.A. 65-6703(4) we can see these steps quite clearly: 1) a determination is made as to gestational age; 2) if that age is 22 weeks or more a determination is made as to viability: 3) if the unborn baby is viable two doctors licensed to practice in Kansas then must determine if an abortion is necessary to preserve the mothers life, or to prevent substantial and irreversible impairment of a major bodily function of the mother; 4) if such a determination is made and an abortion takes place the doctor who performed the abortion must them report certain information; in particular the doctor who performed the abortion must report, 5) the determinations he made; 6) the reasons for such determinations; 7) 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; 8) this information is provided to the Secretary of Health and Environment under K.S.A. 65-445; 9) Pursuant to K.S.A. 65-445 the Secretary of Health and Environment may disclose all information reported to it to the Board of Healing Arts and the Attorney General, who may use said information for "the purposes of a disciplinary action or criminal proceeding."

In order for our post viability abortion law to function effectively each of these steps must be properly followed and administer. Unfortunately, I believe the evidence suggests that our law is neither being followed by abortion providers not is it being properly implemented by the executive branch agencies charged with carrying out the law.

To understand why I believe this is the case its helpful to start by looking at the last 4 years of available post viability abortion data from the Kansas Department of Health and Environment. From these records we know that over that time 1,086 viable unborn children (as determined by the abortion provider) were aborted in Kansas . According to KDHE's statistics none of those abortions were performed to prevent the death of the mother. (KDHE Abortion Reporting Statistics, 2003 - 2006; www.kdhe.state.ks.us/ches/). That means that in order to be lawful all 1086 such abortions over the last 4 years must have been performed because 2 doctors determined "that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman."

Unfortunately it is at this point that the KDHE statistics become much less than helpful in getting at the truth because rather than report, as the law requires, the reasons and basis for such determination, the statistics provided merely restate the statutory language offering no clue as to the actual medical diagnosis used by the abortion doctor to justify the abortion of these viable unborn children.

it in any event I think is important to consider what the available evidence suggests about the reality of illeg late term abortion in Kansas . We can for example look to the initial complaint filed in December of 2006 agains George Tiller for violation of the current Kansas late term abortion law. Among the charges are 15 instances from 2003 where the justification for aborting a viable unborn child included things such as, anxiety and depressed mood, single episode depression, acute stress, and even "no established diagnosis." Recall that Kansas law allows such abortions only where there is a showing of substantial and irreversible impairment of a major bodily function.

Now again, these initial charges against Dr. Tiller have often been treated dismissively because they were brought by a person who lost an election. But I would ask you to remove personalities from the equation and look at the fact that both Judge John Anderson and Judge Eric Yost reviewed evidence related to these charges and found probable cause that crimes had been committed. Much has been made of the fact that a finding of probable cause is not the same as a finding of proof beyond a reasonable doubt. This is most certainly true. But neither is a probable cause finding a simple statesman that some over zealous prosecutor is suspicious that a crime might have been committed. Under Kansas law, as consistently reiterated by the Kansas Supreme Court:

"Probable cause is the reasonable belief that a specific crime has been committed and that the defendant committed the crime. Probable cause exists where the facts and circumstances/ within the arresting officers' knowledge and of which they had reasonably trustworthy information are sufficient in themselves to/ warrant a man of reasonable caution in the belief that an offense has been or is being committed."(State v. Ramirez, 278 Kan. 402, 2004).

This is the legal standard that two separate judges found to have been satisfied. Those charges were dismissed by a third judge who had not reviewed any evidence in the case. They were dismissed on the pretext that the Attorney General, the chief law enforcement officer of the State, lacked the authority to bring the charges. This despite that fact that K.S.A. 65-445 specifically requires abortion records gathered by KDHE to be provided to the Attorney General for the specific purpose of bringing criminal proceedings. K.S.A. 65-446 (c).

But the salient question now is not what has been done in the past, but what happens next. Since those initial charges were filed against Dr. Tiller in Dec. of 2006 new information has now come into public view that sheds further light on the reason that two judges have independently found probable cause to believe that George Tiller is performing illegal abortions on viable unborn children. In particular, we now have an understanding of the opinions of an expert who was retained to testify in the original case against Dr. Tiller. This expert, Dr. Paul McHugh is a man of impeccable credentials and reputation within his field, here served 26 years as the Psychiatrist in Chief at Johns Hopkins Hospital and is currently the University Distinguished Services Professor of Psychiatry at that same institution. Dr. McHugh reviewed the medical records forming the basis for the initial charges against Dr. Tiller. As is clear from a review of those charges, the alleged "substantial and irreversible impairments" relied upon by Dr. Tiller are claimed to be psychological in nature.

Dr. McHugh, one of our nation's most preeminent psychologists, has reviewed that claim and determined, in an opinion as definitive as any I have ever heard, that none of the files he reviewed provide a showing of "substantial and irreversible impairment." Dr. McHugh's complete remarks in this regard are widely available and I believe this Committee has already heard at least some of what he had to say.

My take on Dr. McHugh's remarks are that they are a stunning indictment if the failure to properly follow and implement our post viability abortion law. His comments add tremendous credence to the fear that illegal abortions are being performed in Kansas on viable unborn children capable of living outside their mother's wombs. We also now know, as already noted, that the Attorney General's office also believes that Dr. Tiller has been operating in violation of K.S.A 65-6703. In particular the requirement of a documented referral from another physician not legally or financially affiliated with the physician performing or inducing the abortion.

While I commend the Attorney General's office for enforcing this portion of the law, I would like to add a note of concern as well. On June 28, 2007 when then Attorney General Morrison announced these 19 charges which are currently still pending against Dr. Tiller, he also provided an indication of how his office will interpret K.S.A. 65-6703 going forward. In particular he expressed his opinion that K.S.A. 65-6703 does not require that the doctors who determine that an abortion is necessary to prevent substantial and irreversible impairment of a major bodily function of the mother have a good faith basis for their belief. To quote Attorney General Morrison, "It doesn't matter if I think their reason was good or bad. It doesn't matter if I think he's a good doctor or a bad doctor. All

at matters under Kansas law is that they sign off on that determination." In short this interpretation of Kansas law would say that two doctor's can lie about the existence of a substantial an irresistible impairment and still lawfully perform an abortion on a viable unborn child.

I would posit that this interpretation, while facially plausible if one were to simply read two or three lines of the statue, is an absurd interpretation when the statue is read as a whole with due attention given to the interaction between the provisions various parts.

The upshot of all of this is that while we have a comprehensive statute intended to govern the performance of abortions on viable unborn babies that statues effectiveness is being undermined by the refusal of executive branch agencies to properly implement and enforce its provisions. This failure undermines a fundamental principle of American government, that we are a nation of laws and not of men.

The most famous exposition of this principle was drafted by John Adams for the constitution of the Commonwealth of Massachusetts in justification of the principle of separation of powers:

In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers or either of them: the executive shall never exercise the legislative and judicial powers, or either of them: the judicial shall never exercise the legislative and executive powers, or either of them: to the end it may be a government of laws and not of men.
□ *Massachusetts Constitution, Part The First, art. XXX (1780)*

While the legislative branch can pass laws were are powerless to implement them. For that we must rely upon the diligence of the executive branch. This is the case because as Harvey Mansfield, the *William R. Kenan Professor of Government at Harvard*, recently noted in another context

"the law does not know how to make itself obeyed. Law assumes obedience, and as such seems oblivious to resistance to the law by the "governed," as if it were enough to require criminals to turn themselves in. No, the law must be "enforced," as we say. There must be police, and the rulers over the police must use energy (Alexander Hamilton's term) in addition to reason."

3-4

Dr. Brian Russell, Licensed Kansas Psychologist and Attorney
Testimony before Kansas Legislature, Committee on Federal and State Affairs
Tuesday, February 19, 2008, 1:30 p.m.
Kansas State Capitol, Room 313 S.

Opening Statement

Mr. Chairman, Members of the Committee, and fellow Kansans, as both a Psychologist licensed by the Kansas Behavioral Sciences Regulatory Board and an Attorney licensed by the Kansas Supreme Court and the United States District Court, District of Kansas, with expertise in the assessment of psychological conditions in the context of legal matters, it is my pleasure to again share that expertise with the Committee as it pertains to abortion reporting in this state. I have been called back here today to share with you specifically my opinions on HB 2736.

As I stated in my previous testimony, I have grave concern about physicians using psychiatric diagnoses to justify the performance of late-term abortions in Kansas. While I believe that trivial and "fudged" psychiatric diagnoses have been used in this way, it is my contention, as you may recall, that under no circumstances would a psychiatric diagnoses meet K.S.A. 65-6703's requirement of imminent, substantial, and irreversible harm, the avoidance of which requires an abortion. Just to reiterate, that is because any mental condition that could be reversed by ending a pregnancy is by definition reversible could also be ameliorated by carrying the child to term, perhaps with some palliative psychiatric care in the interim, and any mental condition so severe as to make substantial and irreversible harm imminent would also certainly render the afflicted individual incompetent to make elective surgery decisions.

I have no doubt that women seeking late-term abortions in the absence of grave physical conditions are often under stress, stress about the effects of their pregnancies on

their relationships, stress about the rigors of parenthood, especially when mothers are single and/or raising other children already, and stress about the effects of parenthood on their finances, educations, careers, and/or lifestyles. I have no doubt that a significant percentage of such women who go through with late-term abortions experience a brief sense of relief afterward. It is what comes next that has me gravely concerned, and incidentally, amounts to malpractice for an abortion doctor to ignore and/or conceal in my opinion.

While there are contradictory research findings regarding the psychological after-effects of abortion, there is consensus in the research that between 10 and 20% of women who have abortions, at any time during pregnancy, experience serious psychological complications, and I believe that is likely to be a significant underestimate, particularly with respect to women seeking late-term abortions for non-physical reasons. For instance, 26% of respondents to a national poll of American women who had had abortions said that they regretted their decisions. Part of the reason why those statistics are underestimates, I believe, is that most mental health follow-up studies of women who have had abortions have been done hours to weeks following the women's abortions. For instance, a Danish study found that women were 2.5 times more likely to be psychiatrically hospitalized in the 90 days following an abortion than at any other time, but as I will explain shortly, the most profoundly negative psychological effects of abortion are often delayed. But even by the most conservative estimates, that amounts to well over 100,000 women each year in the United States. Women who have had abortions have been found to be at significantly elevated risk for psychiatric diagnoses and emotional complications including serious anxiety, crushing guilt, depression, and

suicidality, and behavioral complications including substance abuse and neglectful or abusive parenting of surviving children. Women's susceptibility to the negative psychological consequences is heightened by such factors as lack of coping skills, low self-esteem, emotional investment in pregnancy, pregnancy that was originally intended, prior psychological problems, lack of social support, involvement in a violent relationship, belief in the humanity of a fetus, maternal youth, and lateness of abortion in pregnancy. Every woman seeking a late-term abortion has the latter risk factor, and I believe it is likely that a significant portion of the population of women who would seek late-term abortions for non-physical reasons has one or more of the other increased risk factors, which is why, incidentally, a comprehensive psychological evaluation should be required prior to any late-term abortion predicated upon a mental health exception, to assess each individual woman's risk, inform her thereof, and obtain her fully-informed consent. Demographically speaking, some recent studies are indicating that, in addition to young women, poor women and black women are both more likely to seek late-term abortions and more likely so suffer negative psychological consequences thereafter than middle and upper-class white women.

The negative psychological consequences of abortion, and late-term abortion in particular, often take time to manifest. This is due, I believe, in part to the emotional numbing that women undertake in order to get through their abortion procedures, in part to a fleeting sense of relief that may be felt immediately after their abortions, and in part to the diminution of the magnitude of the stressors that they perceived during their pregnancies when looking back with the perspective of several months' or years' time. Recalling the statistics I presented earlier, consider now that in a large Swedish study of

women who had had abortions one year prior, 50-60% reported some emotional distress, with 16% reporting severe emotional distress requiring professional treatment, and 76% said they would not consider abortion again. A Finnish study found that the annual suicide rate among women who had had abortions in the previous year was 3.7 times the suicide rate among women who had not been pregnant. A Canadian study showed that 13% of women who had had abortions were psychiatrically hospitalized within the five-year period following their abortions compared to just 4% of women who had not had abortions. In the U.S., women who had had abortions two years prior were found to be 3-5 times more likely to be clinically depressed than women who had not had abortions, and women who aborted their first pregnancies were found to be at significantly higher risk for clinical depression than women who gave birth even eight years following their abortions or deliveries. And, in a study of women who had had psychological problems prior to their abortions, 5% had committed suicide in the five years since their abortions compared to none of the members of the control group, women who had also had psychological problems prior to their pregnancies but had carried their children to term. This study supports a broader research conclusion that abortion in fact increases the risk of suicide while delivery reduces it. A thorough review of the literature that I have mentioned here today by Coleman, Reardon, Strahan, and Cougle, can be found in the journal *Psychology and Health*, Volume 20, Number 2, pages 237-271, from April 2005.

These findings support the wisdom of the decision that Kansans already have made to allow late-term abortions only in the most grave of circumstances, although I believe it should be made clearer that late-term abortion is intended to be a procedure of last resort even in such circumstances, and underscore the point that I made here

previously when I said that we must treat with great skepticism any assertion that a late-term abortion is necessary to improve a woman's mental health. HB 2736 recognizes those important concerns and enables the people of Kansas to be more certain that their licensed physicians are not putting women's mental health at risk under the guise of improving it, simply for profit and in blatant violation of both their Hippocratic oaths and Kansas law. It accomplishes this by stepping up and facilitating enforcement of existing Kansas statutes addressing late-term abortion, enhancing the penalty for violating those statutes through mandated license revocation, and creating civil causes of action for the victims of violations.

HB 2736 also attempts to help women avoid the negative psychological consequences of abortion and late-term abortion by providing them opportunities to reflect upon the finality and solemnity of their decisions to go through with these procedures. It accomplishes this by mandating that women seeking abortions be allowed, where the technology is available, to view images of their fetuses and consider the fetuses' humanity and by mandating that women be fully –informed as to their physicians' reasons and bases for performing late-term abortions. I would like, however, to see a specific provision stating that where a mental health condition is among those reasons and bases, the woman must be provided with information regarding the potential negative psychological consequences of the procedure.

I turn now to another grave concern that I have about abortions being performed in this state. I believe that physicians are performing abortions on girls whose ages are below the age at which a young woman is deemed legally-competent to consent to sexual intercourse without reporting to Social and Rehabilitative Services and/or law

enforcement the reasonable suspicion of child abuse that, by definition, exists in all such cases. Kansans have already decided, wisely, that patient privacy does not excuse a mandated reporter from his or her duty to report a reasonable suspicion that child abuse has occurred, and where there has been sexual intercourse with an unmarried and underage girl, child abuse has, by definition occurred. Even if the girl was a willing participant, she was, by definition, legally-incompetent to elect to participate. Some mandated reporters try to skirt the requirements of K.S.A. 38-2223 by asserting that, in their judgments, there was no reason to suspect that such girls were "harmed" by having participated in sexual intercourse. It is my contention that, even if harm may ultimately be determined not to have occurred, before an investigation and psychological evaluation of each individual girl, there is reason to suspect psychological harm in 100% of such cases. If it is then determined, for example, that the father of a pregnant 15-year-old's child is another 15-year-old, and that the sexual intercourse was mutually consensual, and that neither teen harmed the other, prosecutorial discretion may then be exercised. Without a report, followed by a thorough investigation and evaluation of such a girl, however, there is a very real risk that she will be returned to a sexually-abusive home or other situation, and this is inexcusable. I shudder to think about how many defenseless young Kansans have been abandoned back into sexual abuse by physicians more interested in terminating pregnancies and pocketing fees than in determining how the pregnancies occurred and whether they resulted from sexual abuse of children. In addition to suffering physically, imagine the psychological suffering of a 13-year-old girl who has been sexually abused. A girl in such a situation would be likely to present at an abortion clinic with her abuser and be too overcome by fear to request help directly from

the medical staff. Now add to that the psychological after-effects of an abortion or late-term abortion that I presented to you earlier, and you have what very well could be a deadly psychological one-two punch, resulting in the self-inflicted end of a second young life. Recall specifically that both youth and the lateness of an abortion increase the risk of serious psychological consequences, and add to that the fact that youth is also associated with an increased likelihood of seeking an abortion late in pregnancy.

HB 2736 recognizes this concern and addresses it by expressly requiring parental notification in the absence of a judicial bypass, expressly requiring that a report be made to law enforcement if a girl indicates that the father of her unborn baby is her father or stepfather, requiring that abortion providers post notices of women's and girl's rights to be free from coercion in obtaining abortions, requiring proof of identification from an adult accompanying a minor female to an abortion clinic, facilitating stepped up enforcement of K.S.A. 38-2223, and creating a civil cause of action for the victims of violations.

For these reasons and for those set forth earlier, I believe HB 2736 is sound public policy and should be enacted without delay, with the addition of a provision requiring that women seeking late-term abortions for psychological reasons be informed specifically of the potential psychological consequences of the abortion procedures so that those women are able to factor both their current and anticipated psychological experiences into their decisions.

Thank you for the opportunity to serve the Committee as a witness in these proceedings. At this time, it will be my pleasure to entertain any questions from the Chair or from the Members.

Testimony of Michelle Armesto Berge
to House Federal State Affairs committee, Feb 19, 2008

Good afternoon to the committee.

MAY 2003 - MY PARENTS' RESPONSE TO MY PREGNANCY
I was eighteen and just about to graduate from high school when I told my parents I was about 25 weeks pregnant. They were very angry. They dismissed my fiancé's proposal of marriage and put unbelievable pressure on me to abort the baby.

My mom found Dr. Tiller's website online. I told her it was murder and that I wouldn't so it. They isolated me from outside influences and had me call Dr. Tiller's clinic to talk to a counselor who spent twenty minutes convincing me to abort the baby and go to college

I was still not convinced. The clinic sent a packet full of information that seemed designed to break down any Christian resistance to abortion. The materials even named a Catholic organization supporting abortion and suggested you could baptize your aborted baby. It seemed very biased.

I asked my mother if she had it to do all over again would she have aborted me and she said yes. My mother also mentioned how my dad wanted to kill everyone of my fiancé's family members but he was short a bullet.

I was told that I would be kicked out of my family if we did not get to Dr. Tiller's for the next cycle of abortions beginning in two days. At this point I became numb and just went through the motions. I agreed to my parents' plan to get the abortion and then move to Oregon, leaving behind my fiancé and friends.

TUESDAY AT THE CLINIC
We got lost and arrived late to Dr. Tiller's clinic in Wichita. I entered a room with three girls and one woman over forty who were already watching a video on Dr. Tiller's legacy. They all looked 6-8 months pregnant. After that, the patients and I went different directions.

I was taken into a room and given an ultrasound. When I looked at the screen, the nurse abruptly moved the screen away. I was then taken to another exam room and that is when the baby was killed. The procedure was done by a woman doctor, along with a nurse. They used a large needle and an ultrasound machine. It took two times to hit the baby.

After the procedure that killed my baby, I went to the lobby and joined my mother. I signed all the various papers, some vaguely explaining the laws concerning abortion and privacy. At this time, I met the woman who I had talked to over the phone and she appeared to be a receptionist, not a counselor.

After signing the papers, my mother and I went to the business office to pay for the procedure. A nurse took me to an exam room and took my weight and a sample of my blood.

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Attachment 5

During all this time I learned a bit about the other patients. One was in my exact same situation. Another was fifteen and her father was with her and really did not want her to abort the baby. The third was a college student who wasn't sure she and her boyfriend could take care of a baby. The fourth was an older woman who felt her boyfriend was too immature and not ready for a baby.

None of the other patients explained their reason for being there as because they were mentally unstable or because the baby was deemed unviable by their obstetrician. All were there because they thought this would solve their immediate problems. Later, we all went to our hotel.

WEDNESDAY
Around ten the next morning I went in to the clinic and had my cervix packed with laminaria sticks to soften the cervix so the baby would deliver easier. After the procedure a Unitarian pastor came and talked to us and told us how God would forgive us. We ate pizza.

Some time during this day I spoke with Dr. Tiller for a few minutes and it felt like a casual conversation more than one about my medical well being. I remember him talking about his teenage child, or children, and how they'd do the same thing if in the same situation.

We all returned to the hotel and picked up our prescriptions for pain medication. That evening I started having severe cramps and couldn't sleep. I thought I heard my fiancé's car that night. The next morning developed into a huge ordeal--one of the biggest of my life.

THURSDAY
When my mom returned to our hotel room with coffee, my fiancé rushed through the open door to talk to me. He begged me not to go through with the abortion but I told him it was too late.

My mom had called the police because of my fiancé's arrival. A policewoman talked to me about skipping the abortion because I was almost done with my pregnancy and because she was a young single mother who was glad she had kept her son. I told her that it was too late.

The police detained my fiancé because he had let the air out of our tires in hopes of preventing the abortion. He yelled out how he loved me. The nurse staying in the hotel took us to the clinic.

My delivery began with an IV. My labor progressed to the final stages and the nurse took me into the bathroom to push the baby out. I remember yelling at the nurse, calling her names and telling her I did not want to be on the toilet. I finally birthed the baby and I distinctly remember seeing the baby on the floor to the left of the toilet. **That image haunts me daily**. That terrible memory has become even more painful since the birth of my subsequent children.

All of us who were done delivering had a conference with the abortion doctor and an older nurse.They said one in three women who have a late-term abortion get pregnant within a year. So we were given birth control pills and had to write down our goals and how we would avoid getting ourselves back into the same situation.

I left the clinic with my mother and was told to have a check up done by a doctor within a week.

AFTER LEAVING THE CLINIC

Over the following weekend I had to attend three graduation ceremonies and parties as if nothing had happened. My fiancé secretly visited me and apologized for anything that could have caused me to abort our baby. On Monday, I began a cross-country trip with my grandmother. My fiancé begged me to come back to Kansas with him, but I was worried my parents would be angry and was not sure what they were capable of at that time.

A follow-up medical exam was never obtained and Dr. Tiller's office never checked up to see why they hadn't received a report. On my way to Oregon, I decided to return to Kansas and fix my life because I had become numb to my emotions and to the enjoyable things in life.

That fall I enrolled in Kansas State University and ever since have continued my education. I married my fiancé and now have three children. I am working on my bachelor's degree and pursuing my dreams, but I am haunted everyday by the abortion. I feel that I was exploited for the $2,500 the procedure cost and was thrown out by the clinic as soon as it was done.

I love my children very much but I have always felt reservations about telling people about my pregnancies because of the experience I had with my first one. Thankfully, I have a supportive husband and in-laws that have helped me get through such a difficult time. I hope to tell my experience to as many people as I can to make them aware of the truth about late-term abortions.

RESPONSE to HB 2736-Comprehensive Abortion Reform Act

► <u>women can choose to see the ultrasound and hear the fetal heart tone monitoring</u>

This provision of the bill would have helped me personally, when I was watching the ultrasound and they turned it around because they did not want me to see the baby. I would have been able to see the baby and beating heart and it would have really registered that I was about to kill a person. I believe this would have changed my mind.

► <u>give women a written diagnosis of viability and period of reflection preceding a late-term abortion and information about hospice and help for delivery of seriously challenged fetus</u>

Being able to know that your baby is not viable and the reason why (with the abortion clinic providing a list of places with free services for people whom are pregnant with a baby that has a disability or a deformity) would have helped as well.

In my case, no doctor or nurse **ever** told me by baby was fatally deformed. I only learned that Dr. Tiller had listed my baby as non-viable when I asked for, and received my medical records last year. I had felt my baby kick and have had 3 normal pregnancies since then so I strongly feel that my aborted baby was viable.

► <u>clinics post a sign onsite warning coerced abortions are illegal and informing victim how to contact law enforcement</u>

I believe seeing this sign would have made me think about my situation and how I got to that point. I think it could have at least made me say no to my parents and leave the clinic. I never thought during that time about how my parents were forcing me to have the abortion. I thought it was my only choice and not how **they** were making it my only choice.

▶ require the Healing Arts Board to revoke medical license for breaking late-term ban

The Board of Healing Arts has interviewed me about my abortion, which was done without my consent and begun without a medical exam. They said the most they could do was take away the doctors' licenses and they did not even know if it would happen in my case because it was just one person and because of the support behind Dr. Tiller and staff. HB 2736, the CARA bill, would give support to the "small guy" like me.

All of the above would have allowed for my situation to be remedied. Now there is not much that can be done with my case. These provisions to the bill would allow the laws already in place to be enforced and for those violating them to be fully prosecuted.

▶ update Right to Know booklet, which is nine-years-dated material

The booklet needs updating with solid medical information and it needs to include a section on being coerced by significant others, family, and friends and contacts for women's shelters and law enforcement.

Proponent, HB 2736 **Feb.19, 2008**
House Federal State Affairs Committee, Rep. Arlen Seigfreid, chair.

Dear Chairman Siegfreid and committee members,

Hello, my name is Kay Lyn Carlson. I'm here today in support of this bill, HB 2736, and believe it is a vital piece of legislation for the protection of women in Kansas.

I am particularly interested in the ability for a woman, prior to her abortion, to be offered the opportunity to view the ultrasound image of her unborn child and the right to listen to the heartbeat of her unborn child before the abortion procedure begins – page 23, sec. (h) and (i).

I am licensed by the state of Kansas as a Master Social Worker (LMSW) and am the director of ARC – an Abortion Recovery Center here in Topeka which opened in June of 2007. I specialize in post-abortion counseling and recovery for those who have suffered from an abortion.

I personally have suffered from an abortion. Over 25 years ago, when I was 17, I was pregnant, scared, and in crisis. I didn't tell my parents about my pregnancy. My boyfriend went with me and I forged my name at the facility.

In a room with fifteen or so other girls we waited for our names to be called. I remember rocking back and forth, crying and not wanting to be there. I thought abortion was my only option. .

While on the abortion table my legs shook uncontrollably, still crying and terrified about what was happening. After the abortion my hands were shaking so uncontrollably that I spilt water all over myself when trying to take pills they had given me. It was traumatic.

Eight years later, I was pregnant again and my doctor scheduled a routine ultrasound for me. When I saw the ultrasound I saw a baby -- **not a blob of tissue like the abortion facility had told me. It was a baby - fully formed - and her little hand was in full view.**

Tears streamed down my face. The nurse asked me if I was okay and I said "yes" but inside I felt like running away from myself, running away from the reality of what I had allowed to take place on the abortion table eight years earlier.

Immediately following the birth of my baby, Emily, I began to have nightmares where I would save myself and allow Emily to die. Two of the most intrusive nightmares were:

> Being in an old mad scientist's lab looking around at all the concoctions brewing, dirty test tubes everywhere and old glass jars lining the cobwebbed shelves. I saw Emily's body parts there. They were severed and stored in several different containers - head in one, legs in another.
>
> The second dream I had involved Emily and me holding on for dear life on a bridge with raging water beneath us. A man, dressed in black was on top of the bridge and could save only one of us. I gave him my hand and watched Emily's body plunge into the river crying, "Mommy, mommy, mo....until she was no more.

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Attachment 6

Not only did I experience PTSD-like nightmares and intrusive thoughts, I also suffered for many years with anxiety, shame, guilt and depression. At my lowest point I wanted to die.

After my own therapy, I made it my life's mission to help others who have also been wounded by abortion. I attended Washburn University and received my undergrad and graduate degree in social work where I learned the tools to help people recover.

Today, as a licensed social worker, I believe it is my ethical duty to inform this committee how a woman's well-being is being put into jeopardy and how clients are being denied vital resources they need to make fully informed decisions about their surgical abortion procedure. Not offering women the opportunity to view their ultrasound prior to having an abortion is an omission of information that is needed in order to make a fully informed decision.

Women affected negatively by abortion, and the clients I serve, complain that they didn't have all the information they needed.

Jenny's experience was this:

> "The counseling I received that day was in a room with other women and we were already out of our clothes and into our gowns. When I asked what they would be removing they told me it was just tissue. They wanted to tell us how quick and easy it would be with minimum discomfort and wanted to make sure this is what we wanted to do -- to erase our mistake and forget all about it and go on with our lives.
>
> "**MAKE NO MISTAKE! If I had an ultrasound and if I had seen it I would not have gone through with the abortion.** Part of the reason I was able to have the abortion was because it was more of an "idea" of a baby but not "really' a baby. The ultrasound would have unequivocally changed my mind. I could never have killed my baby after seeing her."

She then adds, "I miss my baby everyday." Her abortion occurred 29 years ago.

Jennifer, who couldn't be here today, offers this statement:

> "The medical profession worries about malpractice suits coming against them and their goal is to try to inform patients of everything that could possibly happen to them if they underwent this type of surgery or take this type of medication.
>
> "Would any one of us go into a major life decision or undergo a medical procedure without knowing all the facts?
>
> "When I had my abortion 11 years ago, no one offered to let me see an ultrasound or even counsel me on what stage the baby's development was at 7 ½ weeks. Had I been able to see the sonogram, I would have definitely changed my mind and not gone through with the abortion."

Carol Everett was involved in the abortion industry as the director of four clinics and the owner of two. She now speaks out about what she saw in the abortion industry. She offers this statement to us today:

> "As an abortion provider, I knew every woman having an abortion asked two questions. The first was "Does it hurt?" The second was "Is it a baby?" We knew if she knew the truth that all the body parts were present by the time she had the procedure, she would not have the abortion. WE lied to her. We allowed each counselor to answer what she wished: a glob of tissue, a product of conception or a blood clot - even though we knew we had to put every baby's body back together to be certain all the parts had been removed. If a body part was left inside the mother, an infection would likely occur.
>
> "Even at six weeks, the earliest an abortion can be safely completed, the transparent baby must be accounted for and reassembled to determine completion of the abortion procedure."

Offering to see her ultrasound would not be harassing the woman, it would be showing her respect. **Respecting her rights and abilities to make her own decisions based upon knowing all the facts as it relates to her medical procedure**. It is not harassing, it's helping. After all, they can say they do not wish to view the ultrasound

Women of Kansas deserve to have all the information made known to them before they make a life changing decision. Help Kansans make more informed decisions to protect their overall well-being by granting them the opportunity to see their unborn child before making a decision they may later regret.

Had I seen a sonogram before my abortion I believe I would not have gone through with it. So please, if it will only help one woman like me not have to live the rest of her life dealing with these traumatic issues, enact this bill.

Thank you, I stand for questions.

(Client quotes/statements have been used by permission of the clients)

Written testimony to the House Federal State Affairs Committee supporting HB 2736 **Feb. 19, 2008**

Name of Organization:

Alexandra's House

Charitable Perinatal Hospice and Refuge for Abandoned Babies

Address: 638 West 39th Terrace, Kansas City, Missouri 64111
Executive Director: **Patti Lewis, RN**
Phone Number: 816-931-2539 (office) 816-898-2539 (mobile)
Board Chair: **EWJ Pearce, MD**

Precious baby Alexandra was born into her family and into this world on December 12, 1994. Weighing only three pounds, with 12 fingers and 12 toes, and suffering with a lethal genetic disorder, her life spanned 45 very difficult, but all too short, days; 28 in the hospital and 17 at home. During her brief journey, Alexandra was deeply loved and cherished by her protective but anxious family. In her last three days as she lay dying at home; they swaddled her with attention. Their experience was heartbreaking. Over and above the pain of losing Alexandra, they felt complete isolation and abandonment during these desolate days, as Alex came home with minimal medical support. The days, and especially nights, caring for her were painful, long, and frightening.

The family's experience with her life and death brought to the surface a hidden problem. Medicine, with its immense technical advancements, can diagnose fatal fetal defects very early in pregnancy. The health care system is well prepared to heal when able, but not so well prepared when "nothing more" can be done.

Often parents of gravely ill, unborn babies are alone in their grief, in their search for truthful information, and in their need for support.

While hospice services exist for adults, it is limited for babies, especially those still in the womb, once parents decide to continue the pregnancy, despite its desperate outcome. Grieving families are unequipped to do this alone.

Living this real life event was Alexandra's aunt Patti who declared in her soul that no other family should have to endure this suffering alone. It was her profound love for Alexandra and reverence for this experience that caused her to found Alexandra's House. Armed with a fiery zeal and purity of intention, on April 28, 1997, as Heaven breathed life into it, she gave birth to Alexandra's House, to offer help to other families pregnant with terminally ill babies and to shelter any unwanted newborn. She chose Alexandra's six-fingered handprint for its logo.

Alexandra's House was initially operated from the founder's two-bedroom Plaza town-home and supported with her personal income until 2002. As word of this special apostolate spread, a local family provided the means for Alexandra's House to move into a larger home in historic Westport. In 2003 the founder quit her compensated job to serve Alexandra's House, with a promise of poverty, as fulltime Executive Director and House Mother.

Alexandra's House, the first home of its kind, has the largest body of experience in providing perinatal hospice services in the country, offering care to anyone in need of its services, for free.

Alexandra's House is faith-based and operates on trust in God and those in whom He moves to help.

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Attachment 7

Alexandra's House provides active management, versus benign neglect or abortion, for women pregnant with babies with lethal anomalies.

Our common diagnoses are: anencephaly, holoprosencephaly, congenital diaphragmatic hernia, congenital heart disease - complex, Trisomy 13 and Trisomy 18, Trisomy 3, monosomy 7, renal agenesis, Potters syndrome, fractured chromosomes, genetic problems like Smith-Lemlee-Opitz, biliary diseases, hypohydramniosis (too little amniotic fluid), and others. These are our most common plus a few intrauterine lethal cancers.

24-hour Perinatal Hospice Program:
Care includes spiritual, emotional, and practical support for families pregnant with a terminally ill baby or babies and to families whose babies are diagnosed after birth with a fatal disorder. This care is augmented by attending medical visits, ultrasounds and other testing, developing compassionate and comprehensive birth plans, going to labor and delivery and gathering treasured mementos – i.e. photographs, locks of hair, hand and footprints, maintaining vigils through the babies' deaths, bathing and dressing the babies, and participating in funerals and long-term bereavement care (minimum of three years).

If a baby survives dismissal from the hospital, the family and child can come to Alexandra's House, for free, for support through the baby's life and death, and will not experience the sense of abandonment Alexandra's family felt. The vision includes the eventual outgrowth of a community of women who will live together, all taking promises of poverty, to serve the needs of Alexandra's House. This is the "high touch" complement to "high tech" obstetrical care.

Alexandra's House currently, and amazingly, has four surviving children. All were diagnosed in the antenatal period with fatal disorders. These diagnoses were confirmed after birth, yet all are living. Most of these babies were residents at Alexandra's House but were subsequently dismissed to their homes because they were stable and not in threat of imminent death. **Alexandra's House works closely with the family in coordinating community resources to assist with any special needs these children may have and will provide respite care when required.**

Very recently a pregnant woman, after receiving level II ultrasounds and standard prenatal care, was told her baby had a lethal birth defect. For months she prepared herself for her baby's birth and death. Amazingly, once born, the robust baby was found to be free of the disorder and is thriving.

It is commonly reported that **80% of couples that experience the death of a child will divorce, often within 90 days after the loss. Through the diligent teaching and counseling services provided to couples by Alexandra's House, in preparation for the eventual loss of a baby, Alexandra's House families report that their marriages are strengthened** by this experience. One mother said her marriage was "80% better" and another recently said she and her husband are "closer now than on their wedding day". While this experience is obviously a very difficult one, none of Alexandra's House families have divorced.

Bereavement Program, where Alexandra's House hosts a variety of activities, all designed to help propel healthy mourning. These include an annual weekend retreat service for all the families of Alexandra's House, which is held at a local retreat center; an Individual Retreat Program, which provides one-on-one counseling services for individuals, a couple, and/or the grandparents; Quarterly Family Gatherings, which provide an opportunity for all families to join together on a regular basis in their support for one another; and special events, where several mothers come for weekend "slumber parties", where they may pray for healing, assemble memory books, talk, share, cry, look at photos, journal, and write letters to their babies. All these services are held at Alexandra's House, with the exception of the annual retreat.

Alexandra's House families, who have experienced healthy healing and are at least one year past their event, volunteer to serve as mentors to new parents. These couples are hand selected and matched to still pregnant new couples to assist in practical matters.

All these services are really driven by the people Alexandra's House has served. Because this program is new with no other model upon which to build, the families have been instrumental in not only helping design programs, based upon their personal needs and experiences, they have provided invaluable insights to the medical community. Several parents from Alexandra's House have been invited to speak at medical education programs in the city.

Because this is the only perinatal hospice home in the country, the medical community nationwide has recognized Alexandra's House and its executive director is often asked to speak or provide expertise to others.

A clinic in Wichita, Kansas called Choices has incorporated some of the perinatal hospice services Alexandra's House provides into their program.

Their excellent program is attached to its medical staff and serves their patients. Alexandra's House serves the entire community surrounding Kansas City and is not attached to a medical group or hospital system.

All services through Alexandra's House are free.

The parents (mothers) do have their own physicians, labor and delivery charges, paid for by whatever insurance coverage they have. We at Alexandra's House are called to serve for love alone. We do whatever we need to do and our professionals donate their time and advice. We house and feed families for free and transport them if needed. We pay for funerals if the family can't.

We do not provide "professional nursing services" meaning keeping drugs on hand for the babies. We use local already existing pediatric hospice organizations which do charge for their services. They do a great job of keeping our dying babies comfortable, should they come home to Alexandra's House to die (meaning they lived long enough to be dismissed after birth from the hospital). We do not duplicate services that already function in this city. It's a great relationship.

Swaddling Clothes Program seeks to provide a special burial outfit, a small blanket and little toy to put with each baby in their casket.

Destiny's Gift is a program designed to cover burial costs and especially the more expensive item, a headstone, for those infants whose parents cannot assume this financial burden. Alexandra's House believes that being loved and receiving the dignity of a proper burial is every baby's birthright.

Grandparents Group is in development. Grandparents grieve "twice": once for their grandchild and once for their son or daughter. Alexandra's House has a roster of grandparents who are willing to advise other grandparents but the expanded plans are for them to meet face - to- face.

Why perinatal hospice?

Knapp and Peppers published a study in 1970, of parental reaction to perinatal death, and they used a questionnaire. The parents responded by describing feelings of isolation and abandonment, and that the poorly prepared physicians were aloof and unconcerned with the whole matter.

The grief associated with a natural death was similar to the grief associated with abortion, for families who chose this method of dealing with a baby with birth defects. This was exactly opposite of what the caregivers

had thought about the function of abortion. Their preconceived premise was that the abortion would resolve the suffering.

The parents of a baby, who underwent an abortion for birth defects in late pregnancy, suffered the same type of grief as any other perinatal loss.

In addition, they had other sources of distress, such as the conscious decision to end the life of a baby and the possible disapproval of family and friends.

Some 30,000 to 50,000 babies nationally die during their first year of life. In Kansas City and beyond, the mission of Alexandra's House is to make that journey easier for babies and their families.

Details of medical co-ordination

Alexandra's House does not provide "professional nursing services" meaning keeping drugs on hand for the babies. We use local already existing pediatric hospice organizations who do charge for their services and do a great job of keeping our dying babies comfortable, should they come home to Alexandra's House to die (meaning they lived long enough to be dismissed after birth from the hospital). We do not duplicate services that already function in this city. It's a great relationship.

Most internet referrals we receive because mothers cannot find the services we provide where they live. When we have agreed to house an out-of-state mom we have their medical records sent to St. Luke's perinatal center. If they accept the mom into care, she can come here. This is necessary as we do not provide their medical care, but fill in the gaps. Most mothers have insurance or medicaid, If not, St. Luke's has a residents' clinic that cares for these moms as part of their teaching services. (They are of course supervised by attending staff doctors.) We use St. Luke's in these situations as they are physically closest to us and we have great working relationships with them as well as Overland Park Regional Medical Center [OPRMC],

Other mothers we care for in residence are those who live out of the area and are being seen by consulting high risk OBs at St. Luke's, Truman, OPRMC, wherever. The local doctors want to make sure these babies deliver in KC as the baby may have a slight chance of survival and they want all the critical management given at the moment of birth. We house these families 4-6 weeks prior to due date and after birth, as long as baby survives or is dismissed to the family home.

I have not yet seen an insurance company refuse coverage because a baby who is unborn is terminally ill. Let us pray that does not happen!

So far there has not been a forced abortion because the insurers refused to cover the pregnancy but that is a hidden concern of mine down the road. Perhaps part of the reason is that if a baby is born and is failing immediately, we have as a part of our birth plan that no "extraordinary care" be given.

Kansans for Life

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

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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 2736, Comprehensive Abortion Reform Act

House Federal State Affairs Committee
Chairman Arlen Siegfreid

Feb. 19, 2008

Good afternoon Chairman Siegfried 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 2736, the Comprehensive Abortion Reform Act.

This bill will help the state enforce abortion law, enhance informed consent and enact provisions of the Teen Protection Act which passed the House in 2006.

Those who want to stop predators from marching pregnant minors (under 18) into Kansas abortion clinics (to destroy evidence of statutory rape) will support this bill, in which:

- ▶ **judges in parental notice bypass hearings become mandatory reporters of abuse**
- ▶ **civil remedies for violating parental rights & injuring minors are strengthened**

and, in which abortion clinics must:

- ▶ **check IDs of minors and companions**
- ▶ **report child sexual abuse to SRS**
- ▶ **report incest to law enforcement**
- ▶ **notify the custodial parent of a pregnant minor's intended abortion**

Those who support the right of women to have full access to gestational information will applaud the bill's requirements that:

- ▶ **women can choose to see the ultrasound and hear the fetal heart tone monitoring**
- ▶ **women receive a written diagnosis of fetal viability & period of reflection before late-term abortion**
- ▶ **women receive information for perinatal hospice and help for delivery of seriously challenged fetus**

(continued)

Victims of coercion and domestic violence need tools of empowerment. The bill will require that

- ►**clinics post a sign onsite warning that coerced abortions are illegal & informing victim how to contact law enforcement**

Those outraged at the lack of enforcement of our current late-term abortion ban will value provisions that:

- ►**upon reasonable suspicion, allow local DAs to obtain KDHE evidence and prosecute**
- ►**grant standing to citizens to bring a mandamus action for deficient KDHE reports**
- ►**grant standing to the woman and family members, as well as law enforcement, to file injunctions against abortionists violating the late- term abortion ban**
- ►**grant civil remedies against abortionists for violating the late- term abortion ban**
- ►**require the Healing Arts Board to revoke medical license for breaking late-term ban**

For those who want to get better information for good public health policies, this bill will:

- ►**update Right to Know booklet, which is 9-years-dated material**
- ►**add information to KDHE state annual statistical report from judicial bypass reports**
- ►**require SRS to tabulate rapes reported by abortion clinics**

Because this bill touches quite a few statutes, and covers several topics, Kansans for Life has prepared some background information for the committee.

Eleven states have ultrasound viewing laws and several more states are considering passage of such in this current session. Twenty five states have laws prohibiting coerced abortion. Those summaries are prepared by the National Right to Life Committee.

Teen abortion rates from KDHE include special breakout categories requested by us. The number of judicial bypasses granted from 1992 thru 2007 come from the Office of Judicial Administration.

Kansans for Life urges this committee to pass HB 2736 as a commonsense and Constitutional enhancement of the statutes governing the health and safety of women and families.

Thank you.

February 19, 2008

Chairman Siegfreid and members of House Federal and State Affairs Committee:

In light of the recent revelations concerning the inability or refusal of state agencies and members of those tasked to enforce laws enacted by the Kansas Legislature, Concerned Women for America is pleased to support **HB 2736** (Comprehensive Abortion Reform Act). In a perfect world, the rule of law would be sufficient to ensure that women, teens and post viable babies would be protected from exploitation and the citizens of Kansas's will would be enforced. However, based on testimony in the interim committee last summer, it is clear that Kansas is in the midst of an enforcement crisis when abortion is the focus. Kansas could eliminate abortion fraud and coercion by the abortion industry by passing this bill.

One of our most pressing concerns in the past several legislative sessions has been the problem of predators preying on young women. When an under-age teen seeks an abortion this is evidence of statutory rape, but abortion providers have not been reporting sexual abuse. Since most young teens are impregnated by older men, we feel that not only abortion providers, but judges who provide judicial by-pass, should be mandated to report the possible abuse of these teens. In addition, parental notification, at least to the custodial parent should be strengthened. Parents should have recourse to strong civil remedies if their minor child is injured.

A child or a woman who has been coerced into a sexual relationship resulting in a pregnancy needs to have the information she needs to contact law enforcement. Abortion is often used by a predator or abuser to cover up the evidence of their crime. Women and children should be protected by the law, not abusers.

Those who oppose our view will say that the choice of a woman concerning her unborn child is paramount. If choice is as important as they say, they should have no problem ensuring that the women making the choice should have all the information they need to make a decision that will affect their life forever and will end another life. A woman should have the opportunity if she wishes to see an ultrasound of her baby and to hear the fetal heartbeat and she should be given accurate information about the gestational age of her baby that has been determined by using standard medical procedures. According to present Kansas law, she should have a 24-hour waiting period that gives her adequate time to sort through emotion and facts. Based on testimonies heard last summer and allegations being investigated by two grand juries, this waiting period is not being followed. This fact alone makes it imperative a means to ensure strict enforcement be enacted.

The lack of enforcement by tasked agencies and elected officials is a blight upon Kansas, a state known for upholding the rights of those who were not protected by the law. This bill will give local district attorneys the opportunity to obtain KDHE evidence; give standing to citizens to bring a mandamus action for deficient KDHE reports and to grant standing to the woman and her family members to file injunctions against abortionists who fail to uphold the late-term abortion ban.

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Attachment 9

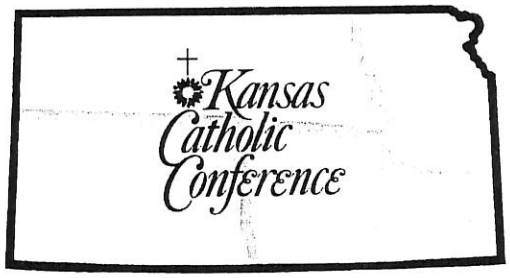
Those who say they want abortion safe and rare should have no problem with this bill because it protects women, teens and legally protected post-viable babies. It forces those who turn a blind eye to enforcement to follow the rule of law.

We urge you to pass **HB 2736** out of committee.

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

CWA of Kansas
P.O. Box 11233
Shawnee Mission, KS 66207
913-491-1380

House Federal & State Affairs
Room 313-S – 1:30 p.m.
February 19, 2008



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TESTIMONY SUPPORTING H.B. 2736

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

My name is Beatrice Swoopes, Interim Director of the Kansas Catholic Conference, the Public Policy office of the Catholic Church in Kansas. Thank you for the opportunity to offer testimony in support of **H.B. 2736**, the Comprehensive Abortion Reform Act.

Kansas law allows abortion on demand until viability, the time determined to be when the baby can survive outside the womb. The exceptions to this law were legislated in 1998. Late term abortions to a viable fetus were prohibited unless the abortionist had a referral from another unaffiliated doctor and that both agreed the abortion was necessary to save the mother's life, or prevent her from "substantial and irreversible impairment of a major bodily function". The Attorney General at that time determined "impairment of a major bodily function" to include "mental health".

In recent years evidence has been presented that would support a conclusion that the Kansas law as it exists has been violated, but for a myriad of reasons the law seems to lack enforcement.

H.B. 2736 is the result of many hours of scrutiny in last year's Special Interim Committee to determine among other things: the original intent of the Kansas late term abortion ban; when viability occurs; how it is defined; how it is reported; if the law in fact has enforcement power; and who should enforce the law. After careful examination and discussion the committee felt the present law was in need of overhaul in the areas of reporting and enforcement.

The bill includes many protective provisions for women and minor children, as well as enforcement teeth. It clarifies what should be reported and by whom. It enhances parental consent, informed consent, and provides civil remedies for violations of the law. This bill does not prevent late term abortions but gives necessary safeguards that are absent in present law.

The Catholic Church believes in the sanctity of human life. Our goal is to protect the weakest in our midst, innocent unborn children, and to give women the support they need in facing a crisis pregnancy. Since Roe v. Wade is law, we are limited to restricting assaults on human life while working to bring an end to the destruction of unborn children through abortion.

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February 19, 2008

Attachment 10

House Federal & State Affairs
Room 313-S – 1:30 p.m.
February 19, 2008

It is time for comprehensive reform to support the intent of protecting the unborn child at a time when survival outside the mother's womb is a distinct possibility. The Kansas Catholic Conference urges your support of **H.B. 2736.**

Respectfully submitted,

Beatrice E. Swoopes

Interim Director