

MINUTES OF THE HOUSE INSURANCE COMMITTEE

The meeting was called to order by Vice Chairman Virgil Peck at 3:30 p.m. on February 11, 2010, in Room 152-S of the Capitol.

All members were present except:

- Representative Burroughs - excused
- Representative Bob Grant - excused
- Representative Clark Shultz - excused

Committee staff present:

- Bruce Kinzie, Office of the Revisor of Statutes
- Sean Ostrow, Office of the Revisor of Statutes
- Melissa Calderwood, Kansas Legislative Research Department
- Lauren Douglass, Kansas Legislative Research Department
- Sue Fowler, Committee Assistant

Conferees appearing before the Committee:

- Jeanne Gawdun, Kansans for Life
- Kari Ann Rinker, Kansas NOW
- Sarah Gillooly, Planned Parenthood
- Sandy Barnett, Kansas Coalition Against Sexual & Domestic Violence

Others attending:

See attached list.

Hearing on:

**HB 2564**     **Accident and health insurance, excluding coverage for certain abortions.**

Melissa Calderwood, Kansas Legislative Research Department, gave an overview of **HB 2564**.

Proponents:

Jeanne Gawdun, Kansans for Life, (Attachment 1), appeared before the committee in support of **HB 2564**. Michael Schuttloffel, Kansas Catholic Conference, (Attachment 2), presented written testimony in support of **HB 2564**.

Neutral:

Marlee Carpenter, Kansas Association of Health Plans, (Attachment 3), presented neutral written testimony on **HB 2564**.

Opponents:

Kari Ann Rinker, Kansas NOW, (Attachment 4), gave testimony in opposition to **HB 2564**. Sarah Gillooly, Planned Parenthood, (Attachment 5), appeared before the committee in opposition to **HB 2564**. Sandy Barnett, Kansas Coalition Against Sexual & Domestic Violence, (Attachment 6), gave testimony in opposition to **HB 2564**. Tiffany Campbell, Individual, (Attachment 7), presented written testimony in opposition to **HB 2564**.

Hearing closed on **HB 2564**.

Representative Olson moved to accept the February 4, 2010 committee minutes as written. Seconded by Representative Hermanson. Motion Carried.

The next meeting is scheduled for February 16, 2010.

The meeting was adjourned at 04:50 p.m.



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**Proponent, HB 2564**

Feb. 11, 2010

Chairman Shultz and committee,

Abortion destroys unborn children and harms women.

The public does not believe that abortion should be paid for in health insurance (*68% in a Sept 2009 poll done by International Communications Research*).

Since 2007, Kansas taxpayers have been freed from paying for elective abortions in state health employee insurance.

The SEHBP language for all health insurance plan options A and B, and Plan C (Qualified High Deductible Health Plan) reads as follows: provisions for abortion and abortion-related services will be covered in the following:

- ▶ *where the life of the mother would be endangered if the fetus were carried to term;*
- ▶ *termination of a tubal pregnancy;*
- ▶ *prior to the 8th week of pregnancy when the pregnancy is a result of an act of rape or incest;*
- ▶ *medical complications that have risen from an abortion.*

HB 2564 will allow ordinary citizens to be free from being forced to pay for other people's elective abortions in employee-provided, or self-insured, healthcare policies.

The current situation of automatically covering abortion has infuriated many individuals, including private businesses that do not want to include this for their employees.

Seven states (ID, KY, MO, OK, ND, RI, WI) exclude abortion in private insurance policies, some allowing coverage only for life of mother cases. (*Nine states exclude abortion for tax funded policies, see attachment*)

It is our understanding that Blue Cross already offers abortion only as a rider option in Kansas, more as a practical matter of the unique KCMO area, and having to provide abortion as a rider under Missouri law.

Kansans for Life stands in support of HB 2564.



Kansas Affiliate of the National Right to Life Committee

House Insurance  
Date: 2-11-10  
Attachment # 1

# Information about states that exclude insurance from covering abortion as standard from National Right to Life Committee via Kansans for Life

## Arkansas

Pursuant to Arkansas' Constitution, certain state employee insurance plans prohibit coverage of abortion unless necessary to preserve the life of the mother. Amendment 68 of the Arkansas Constitution prohibits the use of public funds to pay for an abortion unless necessary to preserve the life of the mother. In 1998, an agreement was reached that the University of Arkansas's employee group health insurance plan will cover abortions only when necessary to preserve the life of the mother. Ark. Const. amend. 68, &sect1 (Initiative Petition Approved 1988); *Foshee v. Sugg*, No. E-IJ97-4325 (Ark. Cir. Ct. Feb. 6, 1998) (dismissal).

In 2002, a lawsuit was filed seeking to prohibit Pulaski County from continuing to offer employee health insurance coverage for abortion in cases of rape and incest claiming that this violated Amendment 68. The county changed insurance policies and now provides coverage only for abortion in cases of life endangerment to the mother. The lawsuit was dismissed. *Ehlebracht v. Villines*, No. IJ2000-2121 (Ark. Cir. Ct. Dec. 4, 2002) (order dismissing without prejudice).

## Colorado

In 1985, the Colorado Attorney General issued an opinion stating that group health insurance provided by the state for its employees must exclude coverage for abortion pursuant to the state constitutional prohibition on the use of state funds for abortion except when necessary to prevent the death of the mother. Colo. Op. Att'y Gen. No. OLS8500339/ANY (Feb. 6, 1985); Colo. Const. art. V, § 50 (Enacted 1984).

## \*Idaho

Disability insurance policies, individual insurance policies, and managed care plans must exclude coverage for abortions unless the procedure is necessary to preserve the mother's life. Coverage may be obtained if the carrier elects to offer it and an additional premium is paid. Idaho Code §§ 41-2142, 2210A, 3439 (Enacted 1983); Idaho Code § 41-3924 (Enacted 1983; Last Amended 1997).

## Illinois

Funds paid by the state for group health insurance and health maintenance organization (HMO) plans for its employees may not be used to pay for an abortion unless necessary to preserve the life of the mother. 5 Ill. Comp. Stat. Ann. 375/6 (Original Statute Enacted 1971; Relevant Provision Enacted 1978; Last Amended 2003); 5 Ill. Comp. Stat. Ann. 375/6.1 (Original Statute Enacted 1976; Relevant Provision Enacted 1983).

## \*Kentucky

All health insurance contracts, plans, and policies must exclude coverage for abortion unless the procedure is necessary to preserve the life of the mother. Coverage may be obtained through an optional rider for which an additional premium is paid. Ky. Rev. Stat. Ann. § 304.5-160 (Enacted 1978).

Health insurance policies provided to state employees may not provide coverage for obtaining or performing an abortion. No state funds may be used to obtain or perform an abortion on behalf of state employees or their dependents. Ky. Rev. Stat. Ann. § 18A.225 (10) (Original Statute Enacted 1982; Relevant Provision Enacted 1996; Last Amended 2002).

### **Mississippi**

No public funds may be used to pay for insurance coverage for abortion for state employees, except in cases when the procedure is necessary to preserve the life of the mother, the pregnancy is the result of rape or incest, or the fetus has an anomaly incompatible with live birth. Miss. Code Ann. § 41-41-91 (Enacted 2002).

### **\*Missouri**

Health insurance policies must exclude coverage for abortions for any reason except to preserve the life of the mother. Coverage may be obtained through an optional rider for which an additional premium is paid. Mo. Ann. Stat. § 376.805 (Enacted 1983). A court upheld the constitutionality of this law in *Coe v. Melahn*, 958 F.2d 223 (8th Cir. 1992).

### **\*Nebraska**

No group insurance contract or health maintenance agreement providing health care coverage paid for in whole or in part with public funds may include coverage for abortion except to preserve the life of the mother or to cover medical complications arising from an abortion. Abortion coverage may be obtained if the insurer offers special coverage and the costs are borne by the employee. Neb. Rev. Stat. § 44-1615.01 (Enacted 1981).

### **\*North Dakota**

Health insurance contracts, plans, or policies delivered or issued for delivery in the state must exclude coverage for abortion unless the procedure is necessary to preserve the life of the mother. Coverage may be obtained by an optional rider for which an additional premium must be paid. N.D. Cent. Code § 14-02.3-03 (Enacted 1979).

### **\*Ohio**

State funds for health insurance for state employees may not be used to provide coverage for abortions unless necessary to preserve the life of the mother or the pregnancy was the result of rape or incest and reported to a law enforcement agency. Beneficiaries may obtain coverage by paying an additional premium for an optional rider. Ohio Rev. Code Ann. § 124.85 (Enacted 1998).

### **\*Oklahoma**

All health insurance contracts, plans or policies must exclude coverage for abortions unless the procedure is necessary to preserve the life of the mother or in the case of rape reported to a law enforcement agency or in the case of incest involving a minor and reported to a law enforcement agency. Coverage may be obtained through an optional rider for which an additional premium is paid. S.B. 139, 51st Leg., 2007 1st Sess. (Okla. 2007) (Enacted 2007) (to be codified at Okla. Stat. Ann. tit. 63, § 1-741.2).

## Pennsylvania

Health and disability insurance providers must offer a policy that expressly excludes coverage for abortion not necessary to avert the death of the woman or to terminate pregnancies initiated by acts of rape or incest. 18 Pa. Cons. Stat. Ann. § 3215(e) (Enacted 1982; Last Amended 1988).

Employee health plans funded by the state may not include coverage for abortion unless an independent physician certifies that the abortion is necessary to avert the death of the mother or the pregnancy is the result of rape reported to a law enforcement agency prior to the abortion or incest reported to a law enforcement agency or child protective services prior to the abortion. 18 Pa. Cons. Stat. Ann. §§ 3215(c), (d) (Enacted 1982; Last Amended 1988).

## \*/\*\*Rhode Island

No health insurance contract, plan, or policy here and after delivered or issued for delivery in the state, shall provide coverage for induced abortion, except where the mother's life would be endangered or the pregnancy resulted from rape or incest. Coverage for abortion may be obtained through an optional rider for which an additional premium must be paid. R.I. Gen. Laws Ann. § 27-18-28 (Enacted 1983).

The state or any city or town must not include coverage for abortion in any employees' health insurance contract, plan, or policy unless the procedure is necessary to preserve the life of the mother or the pregnancy resulted from rape or incest. R.I. Gen. Laws Ann. § 36-12-2.1 (Enacted 1981).

\*\*A court has permanently enjoined §27-18-28 as unconstitutional and held that §36-12-2.1 is unconstitutional and unenforceable as applied to municipal employees. *Nat'l Educ. Ass'n of R.I. v. Garrahy*, 598 F. Supp. 1374 (D.R.I. 1984), *aff'd*, 779 F.2d 790 (1st Cir. 1986).

## South Carolina

Funds appropriated to the State Health Insurance Plan may not be used to pay for an abortion except in cases of rape, incest, or to preserve the life of the mother. H.B. 4800, 117th Gen. Assem., 2nd Reg. Sess. (S.C. 2008) (Enacted 2008).

## Virginia

Benefits provided to state employees through the Commonwealth of Virginia Health Benefits Plan may not provide coverage for abortion unless: (1) the procedure is necessary to preserve the life of the mother; (2) the pregnancy is the result of rape or incest that has been reported to a law enforcement or public health agency; or (3) a physician certifies that the fetus is believed to have an incapacitating physical deformity or mental deficiency. Va. Dep't of Human Resource Mgmt., Mem. No. 96-9 (May 31, 1996); Va. Dep't of Human Resource Mgmt., COVA Care Member Handbook, (July 1, 2007) at <http://www.dhrm.state.va.us/hbenefits/hbhandbooks/COVAHDHPMemberHandBk2007.pdf>.

## \*Wisconsin

Insurance provided through the Private Employer Health Care Purchasing Alliance may not include coverage for non-therapeutic abortion unless directly and medically

necessary to preserve the mother's life. Coverage for abortions not medically necessary to preserve the life of the mother may be obtained by an optional rider or supplemental coverage provision that is offered and provided on an individual basis for which an additional premium is paid. Nothing in the act requires an insurer or employer to offer or provide coverage of abortions. Wis. Stat. Ann. §§ 40.98 (1)(g), (2)(bm) (Enacted 1999); Wis. Legis. Reference Bureau, Private Employer Health Care Coverage, Budget Br. 99-9 (Nov. 1999).

\*Laws which provide for optional riders



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## House Insurance Committee

February 11, 2010

### Testimony in Support of HB 2564

Michael Schuttloffel, Executive Director, Kansas Catholic Conference

Chairman Schultz, members of the committee, thank you for holding this hearing and for your attention to this important issue.

The Kansas Catholic Conference, which is the public policy arm of the Catholic Church in Kansas, strongly supports HB 2564. If one were to conduct a poll of all Kansans, we have little doubt that an overwhelming majority of them would share our support of this bill, for the simple reason that most Americans do not believe that they should have to pay for other people's abortions.

Currently, insurance companies in Kansas often cover abortions as a matter of course, meaning that everyday Kansans end up financing other people's abortions through their premium payments, usually completely unwittingly. It would be a very unpleasant surprise for many people in this state to discover what exactly it is their premium dollars are paying for.

Opponents of this legislation will likely point out that health insurance oftentimes pays for procedures and medications that many or most plan participants will never use. Some claim that allowing coverage of, say, Viagra, but not abortion, amounts to unfairness or even discrimination. In fact, this is a poor analogy that does not hold water.

Abortion should not be a routine component of insurance coverage for the simple reason that it is morally repugnant to a majority of our citizens. Individuals may hold differing views over whether insurance should cover Viagra, or LASIK surgery, or a number of treatments. Indeed, whether through one's health insurance premium or one's taxes, we all end up paying for things that we may never use or that we find objectionable. That is just a function of being a part of modern society.

House Insurance  
Date: 2-11-10  
Attachment # 2

MOST REVEREND RONALD M. GILMORE, S.T.L., D.D.  
DIOCESE OF DODGE CITY

MOST REVEREND MICHAEL O. JACKELS, S.T.D.  
DIOCESE OF WICHITA

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MOST REVEREND JAMES P. KELEHER, S.T.D.  
ARCHBISHOP EMERITUS – ARCHDIOCESE OF K.C. IN KS

MOST REVEREND GEORGE K. FITZSIMONS, D.D.  
BISHOP EMERITUS – DIOCESE OF SALINA



However, abortion is a uniquely divisive issue. Opponents of abortion believe it to be a transcendent evil. Asking an opponent of abortion to finance it with their taxes, or with their health care premium, is simply unacceptable and is well outside the mainstream of public opinion.

Put simply, abortion is not even remotely morally equivalent to Viagra, LASIK, or anything else on the menu of health care treatments. Abortion is not a preventative or corrective procedure, pregnancy is not an illness to be healed, and an unborn child is not a virus to be eradicated. Abortion is an act of destruction that is sharply distinct from what most Americans consider to be health care.

Now, opponents of this bill may also suggest that purchasing health insurance that happens to cover abortion is not mandatory – no one is forced to do so. That ignores three important points:

- 1) Most Kansans have no idea that their health insurance covers abortion, and would be outraged to make such a discovery.
- 2) While individuals are not required to purchase insurance at this time, such a mandate is in fact a central component of the health care reform legislation being contemplated by the United States Congress at this very moment.
- 3) Because so many Americans receive their health insurance coverage through their employer, and because many employers offer only a single plan, many Kansans really have no choice but to accept that plan, no matter how unsatisfactory its terms.

The reality for most Kansans is that they simply can only afford the single plan they currently have, which, unbeknownst to them, uses their premium payments to cover other people's abortions. This is a problem that has been fixed in other states in our region and should be fixed in Kansas.

For too long, Kansas has been an outlier of pro-abortion extremism that does not reflect the will of the clear majority of its residents. Kansans should be able to provide health care for their children without having to support the destruction of the unborn children of others. This is not a radical concept. Indeed, Americans who cannot agree over abortion in general can and do find common ground in the proposition that those opposed to it should not be required to be complicit in it.

We urge the Committee to strike a blow for the conscience rights of everyday Kansans who simply want to have health care for themselves and their families without being involved in abortion. Please support HB 2564.



# Kansas Association of Health Plans

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February 11, 2010

**HB 2564--Neutral Conferee  
Written Testimony before the House Insurance Committee  
Marlee Carpenter, Executive Director**

Chairman Shultz and members of the Committee;

I am Marlee Carpenter, Executive Director of the Kansas Association of Health Plans (KAHP). The KAHP is a nonprofit association dedicated to providing the public information on managed care health plans. Members of the KAHP are Kansas licensed health maintenance organizations, preferred provider organizations and other entities that are associated with managed care. KAHP members serve the majority of Kansans enrolled in private health insurance. KAHP members also serve the Kansans enrolled in HealthWave and Medicaid managed care.

KAHP is here today as a neutral conferee, to provide information on how this measure will affect the administration of health insurance in Kansas. For many of our member plans, coverage is provided if this procedure is medically necessary and that decision is made by the provider. Some groups—businesses that purchase this coverage for their employees—have requested specific "opt-out" language. Health insurance plans already give customers choice of coverage with the "opt out" and this bill reverses that unnecessarily to "opt in." Handling this opt-out clause or having a rider in the non-group market will make these policies difficult to administer.

Another concern for KAHP members is the complexity that this policy may create. This will create a precedent of a "reverse mandate." Other groups may want to come in and seek this type of treatment by insurance companies. We currently have more than twelve health insurance mandates proposed during the 2009-2010 Session. As these proactive mandates or reverse mandates increase in frequency, health insurance providers are limited in the type of health insurance product they can offer.

Thank you for your time and I will be happy to answer any questions at any time.

House Insurance  
Date: 2-11-10  
Attachment # 3



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## HB 2564: Opponent

Prepared for the House Insurance Committee

Representative Clark Schultz, Chair

Prepared by Kari Ann Rinker

Kansas NOW

State Coordinator & Lobbyist

February 10, 2010

The provisions of this bill will have unintended dire consequences to mothers and their babies by unnecessarily limiting options. Forcing doctors to make legal determinations and families to weigh financial considerations as the life or health of a mother or baby hang in the balance, is simply wrong.

My friend Tiffany Campbell was pregnant with identical twin boys. They were told that the fetuses she was carrying had twin-to-twin transfusion syndrome, a condition where twins unequally share blood circulation. One boy was receiving too much blood resulting in a strained heart and acute risk of heart failure. Meanwhile, his brother was clinging to life as his blood supply was insufficient to sustain normal development. Tiffany's doctors cautioned that if one boy died his brother would likely follow.

They chose to have a selective termination performed. The decision was predicated on consultation with experts in the field of fetal medicine, their personal beliefs and prayer. Today Tiffany has one healthy son. Thankfully, Tiffany's husband, a CPA had an insurance policy that covered the abortion.

House Insurance  
Date: 2-11-10  
Attachment # 4



Under the terms of this bill a family here in Kansas would have to take out loans or perhaps sell their belongings to pay for a procedure like Tiffany's. The suggested riders, simply do not exist. This is largely due to the fact that no family expects to have a need for abortion services.

The language of this bill is particularly restrictive in that there is no exception for the health of the mother, only her life. The track record of insurance companies has proven that what can be denied, will be denied. This language may, in fact put a woman's life in danger while testing the bounds of this provision.

Quite simply, this bill inserts the belief systems of some into bad health insurance policy for all. It reaches beyond the recent national debate surrounding health care, abortion and insurance. This is a matter of private money and private business. If people morally oppose insurance policies that cover abortion, let them select one that does not. Let them take their complaint to their agent. Let the private market sort out these issues, rather than enacting a state mandate to address it. Once this door of government infringement is opened, it may very well prove difficult to shut.



**Testimony of Sarah M. Gillooly, M.A.**

**Kansas Public Affairs Manager of**

**Planned Parenthood of Kansas & Mid-Missouri,**

**in opposition to House Bill No. 2564**

**before the**

**House Insurance Committee**

**of the Kansas Legislature**

**February 10, 2010**

Good afternoon. My name is Sarah M. Gillooly and I am the Kansas Public Affairs Manager for Planned Parenthood of Kansas and Mid-Missouri. Thank you for this opportunity to present testimony on our opposition to HB 2564. In Kansas, Planned Parenthood maintains family planning health and education centers in Wichita, Hays, Lawrence and Overland Park. One of our most important goals is to help men and women make responsible choices that prevent unintended pregnancies. More than ninety percent of our patients come to our agency for family planning and other preventive health services. At our Comprehensive Health facility in Overland Park, we also provide safe and legal abortion care for women in their first and second trimesters of pregnancy.

Proponents of HB 2564 would have you believe that abortions are dangerous and that physicians who provide abortion care operate under veils of deceit and dishonesty. They claim insurance coverage for safe, legal abortion care is unfair, but what is truly unfair is that they seek to chip away at a woman's ability to access these safe, legal services piece by piece.

This bill is unnecessary to "protect" those who object to insurance coverage for a woman's right to choose a safe, legal abortion. Additionally, the language of HB 2564 is unclear, extreme, and infringes on the rights of employers and their employees. HB 2564 provides no consideration for the health of the mother and proposes an unworkable, impractical so-called "rider" system.

HB 2564 is government intrusion into the rights of employers and private insurance companies to provide benefits to their employees and clients as they deem most appropriate. As the House and Senate consider a concurrent resolution serving notice to the federal government to cease and desist health care mandates, it seems contradictory to consider a bill that creates government mandates for the products that private insurance companies do and do not offer. Proponents of this bill will claim that members of an insurance group who have objections to abortion should not be forced to pay for other group members' abortion care coverage. Health insurance coverage is a private contract between an insurance company, an employer, and an employee. In our free market economy, if an employee has objections to any provisions in their health insurance benefits, including abortion care coverage, that employee has the right to take

their concerns to the employer. The employer, in consultation with the insurance company, can choose to change the benefit offered, or they can choose to not do so, in which case the employee has the right to opt out of the employer provided benefit and purchase their own insurance.

HB 2564 is an extreme bill, and it not in line with the values of Kansans, who want common sense solutions. The legislation contains exceptions for life of the mother, pregnancies in minors resulting from incest, and pregnancies resulting from sexual assault that has been reported to law enforcement. However, HB 2564 does NOT contain an exception for the health of the mother. This legislation is extreme, and does not take into account the real and difficult circumstances that sometimes accompany pregnancy and endanger the health of women.

The so-called rider system proposed in HB 2564 is unworkable, and for all practical purposes, non-existent. First, no woman plans for an unplanned pregnancy, a fetal indication/abnormality, or a pregnancy that goes tragically, and sometimes life threateningly, wrong. Second, in the 5 states that currently have laws similar to that proposed in HB 2564, there is no evidence that “abortion insurance riders” exist in practice. Creating a separate rider system will effectively eliminate ALL insurance coverage for abortion care in Kansas, even in circumstances of health of the mother and tragic fetal indications, which I have no doubt is the intended, though unspoken, goal of this legislation. HB 2564 is yet another attempt by the anti-choice hardliners to play politics with women’s lives during an election year, instead of focusing on good public policy and the prevention of unintended pregnancy.

I would like to close with my personal story. My sister Lauren and her husband Chip were overjoyed when they learned they were pregnant with a baby girl. They named her Cecelia Ruth: Cecelia, the Patron Saint of Music, our mother is a musician in the Church; and Ruth for our paternal grandmother. After an irregular ultrasound at 12 weeks and follow-up genetic testing, the doctors determined that Cecelia had Turner Syndrome. Turner’s Syndrome is a genetic defect that occurs in female fetuses. It is the absence of part or all of the second X chromosome. Some girls have parts of that second X chromosome and usually go on to full lives with only relatively minor health issues. Other girls do not have any of that second X chromosome, known as monosomy Turner’s Syndrome. Monosomy Turner’s Syndrome is a fatal abnormality. Cecelia had monosomy Turner’s Syndrome. She would not survive. Lauren and Chip were told their loved and wanted baby girl would likely not survive to 15 weeks gestation.

My sister Lauren, her husband Chip and our entire family were heartbroken. Our dreams of a healthy baby had come crashing down.

The days and weeks went by, and at each ultrasound Cecelia's heart rate decreased. At 20 weeks, the edema all over Cecelia's body, a complication caused by Turner's Syndrome, which prevents the developing body from reabsorbing any lymph fluid, was extreme, and the doctors could no longer tell my sister Lauren if her baby was experiencing distress. Lauren and Chip made a decision, they could not provide Cecelia with any "palliative" care, and they wanted to hold their baby girl before she was gone. Lauren and Chip decided to induce labor, which at 20 weeks gestation, pre-viability, is an abortion in the state of Kansas as elsewhere in the country. Tragically, Cecelia's heart stopped beating during the labor. Cecelia Ruth Gillooly Robbins was stillborn on May 6, 2007. Lauren and Chip held her, dressed her, kissed her, loved her, had her baptized, and said their goodbyes. Both sets of grandparents were there to do the same. It was the hardest day in my sister's life- to lose the girl they so desperately wanted. But when they held her, they knew they had made the right decision. The weeks that followed were incredibly difficult for our entire family. In the midst of this tragic circumstance, our tremendous grief, we were all grateful Chip had health insurance. As Lauren wrote to me recently, "I can only imagine how much harder that time would have been if we had been financially devastated because insurance wouldn't have paid." If HB 2564 becomes law, abortion care procedures, like Lauren's, would not be covered by health insurance in the State of Kansas and would add an unnecessary, and traumatic, burden to women facing these already difficult circumstances.

In closing, Planned Parenthood asks this Committee to oppose HB 2564 as this bill seeks only to place more unnecessary burdens on women seeking abortion care and does nothing to actually prevent unintended pregnancy or reduce the number of abortions in Kansas.



# kcsdv Kansas Coalition Against Sexual and Domestic Violence



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House Insurance Committee  
February 11, 2010

House Bill 2564  
OPPOSE

Chairman Schultz and Members of the Committee:

The Kansas Coalition Against Sexual and Domestic Violence is a network of programs across Kansas that provide direct services to victims of sexual assault and domestic violence.

KCSDV opposes HB 2564 based on the policy in this bill requiring victims of rape to report to law enforcement and because "incest involving a minor" is not found in Kansas law with the exception of aggravated incest (K.S.A. 21-3603), which addresses marriage and familial relationships.

### Reporting of Rape to Law Enforcement:

The majority of all rapes are never reported to law enforcement. Between 1992 and 2000 only 25% to 48% of all victims of rape and sexual assault ever made a report to law enforcement (Bureau of Justice Statistics. *Reporting Crime to the Police, 1992-2000*. 2003).

There may be many reasons that a victim of rape does not report to law enforcement. Rape is a deeply traumatic event and maintaining their own privacy may be the only control victims feel they have left. They may be afraid of law enforcement or the criminal justice system. They may not understand that what has happened to them was rape. They may feel ashamed. They may blame themselves for the rape. Over half of all sexual assaults in the United States are perpetrated by someone known or related to the victim, which adds enormous complexity to an already difficult experience. Reporting to law enforcement may exacerbate the complexity.

In 2008, the Kansas Legislature amended K.S.A 65-448 to allow collection of forensic evidence solely upon the request of the victim and without making a law enforcement report. This gives victims of sexual assault the option of preserving valuable forensic evidence while they contemplate whether to report to law enforcement or not. With the amendment of K.S.A. 65-448, the Kansas Legislature demonstrated its understanding of the dynamics that victims of rape face when deciding whether to report to law enforcement. Under K.S.A. 65-448, forensic evidence can be held for up to five years without a report to law enforcement.

One of the greatest fears victims have after a rape is that they may have contracted HIV/AIDS or been impregnated. Unfortunately, neither of these can be confirmed for some time after the rape. That waiting time is agonizing for victims. If they have not reported to law enforcement during this time and learn they are pregnant as a result of the rape and they decide to terminate the pregnancy, it is an inhumane trauma to expect them to worry about health care, law enforcement, and insurance while trying to come to terms with making a difficult personal decision.

And, I can assure you, if this bill passes requiring victims to report to law enforcement to have their insurance pay for a legal medical procedure, will result in law enforcement being suspicious of every report made after a two week period. Incidentally, if victims do not report at the time forensic evidence is collected, it is my experience that victims will do so after the intensity of the crisis is decreased in a two to six week period after the assault.

Requiring rape victims to report to law enforcement in order to preserve their right to a legal medical procedure resulting from that rape is bad policy for all victims.

Inclusion of incest in HB 2564 is confusing:

Under K.S.A. 21-3602 incest is defined as "marriage to or engaging in otherwise lawful sexual intercourse or sodomy, as defined by K.S.A. 21-3501 and amendments thereto, with a person who is 18 or more years of age and who is known to the offender to be related to the offender as any of the following biological relatives: parent, child, grandparent of any degree, grandchild of any degree, brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece." This definition does not include minors.

Under K.S.A 21-3603 aggravated incest is defined as "(1) Marriage to a person who is under 18 years of age and who is known to the offender to be related to the offender as any of the following biological, step or adoptive relatives: Child, grandchild of any degree, brother, sister, half-brother, half-sister, uncle, aunt,

nephew or niece; or (2) engaging in: (A) Otherwise lawful sexual intercourse or sodomy as defined by K.S.A. 21-3501 and amendments thereto; or (B) any lewd fondling, as described in subsection (a)(1) of K.S.A. 21-3503 and amendments thereto, with a person who is 16 or more years of age but under 18 years of age and who is known to the offender to be related to the offender as any of the following biological, step or adoptive relatives: Child, grandchild of any degree, brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece. "

HB 2564 needs more clarity regarding what is intended by this provision.

Respectfully submitted by:

Sandy Barnett  
Executive Director

# kcsdv Kansas Coalition Against Sexual and Domestic Violence



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House Insurance Committee  
HB 2564  
February 16, 2010

Chairman Shultz:

During the hearings on HB 2564 I testified on behalf of the Kansas Coalition Against Sexual and Domestic Violence (KCSDV) regarding New Section 1, lines 21 and 22 that require victims of rape to report to law enforcement in order to qualify for an exception to an insurance rider for abortion coverage in their insurance plan.

Although KCSDV agrees with the Committee that in a perfect world we do want all victims of sexual violence to be able to report the assault without experiencing negative consequences as a result of doing so, we just do not have such a system. Therefore, I testified to the damaging impact of reporting rape to law enforcement and the subsequent actions of the criminal justice system when the victim does not wish to make such a report. As a result of my testimony, members of the House Insurance Committee asked me if I could think about how to better address the issue without striking the requirement of a law enforcement report. Without creating a very complex system that allows a victim to have other forms of verification I am at a loss in helping the committee. Although I recognize that some members of the committee appeared interested in keeping the law enforcement reporting provision, I am not aware of a way to amend HB 2564 other than to strike the requirement.

KCSDV affirms its position of concern about the consequences of requiring victims to report to law enforcement and requests the committee to strike this requirement.

Sincerely,

Sandy Barnett  
Executive Director

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## Opponent HB 2564

Good afternoon, I am submitting this written testimony in the hopes that you will vote against passing House Bill 2564. Unfortunately I have a personal experience with abortion, I never dreamt I would desperately need one in order to bring a child into this world. I was happily married with two children and looking to add to my family. In 2006 I became pregnant and was thrilled. After landing in the hospital with a severe kidney infection at 19-weeks gestation, I received my first ultrasound, leaving us shocked, yet thrilled to see we were expecting identical twin boys.

The joy didn't last when our babies were diagnosed with Twin-to-Twin Transfusion Syndrome. Webmd.com explains that Twin-twin transfusion syndrome as "the most serious complication of identical twins. It starts in the womb when one twin gets too much blood and the other not enough. The outcome for both twins is grim."

Severe TTTS has a 60-100 percent fetal or neonatal mortality rate. We were sent to one of the premier fetal care centers in the country and told our only hope for saving this pregnancy was to have a selective termination on the one of the babies, and hope the other twin would survive.

House Bill 2564 would not have allowed my insurance company to pay for the selective reduction, the total bill from the fetal care center was just over \$220,000. I would have never carried an abortion rider; I never expected to need one. We were fortunate that our insurance covered 80% of the costs. Had they not, I'm not sure what we would have done. Why should I have to choose between having a life-saving procedure that will most likely put us into bankruptcy while at the same time forcing me to choose between the best interests of our much wanted unborn child versus the best interests of our other two children? After three years we have finally paid off our share of bills from that pregnancy.

TTTS doesn't pick wealthy families to affect. I was fortunate to have a husband with a good job and insurance. The provisions of House Bill 2564 will have unintended dire consequences to mothers and their babies by unnecessarily limiting options. Forcing doctors to make legal determinations and families to weigh financial considerations as the life or health of a mother or baby hang in the balance, is simply wrong.

Thank you for your time,  
Tiffany Campbell  
Sioux Falls, SD

House Insurance  
Date: 2-11-10  
Attachment # 7

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