

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The Chairman called the meeting to order at 9:38 A.M. on March 17, 2011, in Room 548-S of the Capitol.

All members were present, except Senator Donovan, who was excused

Committee staff present:

Lauren Douglass, Kansas Legislative Research Department
Robert Allison-Gallimore, Kansas Legislative Research Department
Jason Thompson, Office of Revisor of Statutes
Tamera Lawrence, Office of Revisor of Statutes
Jason Long, Office of Revisor of Statutes
Theresa Kiernan, Committee Assistant

Conferees appearing before the committee:

Senator Mark Taddiken
Kathy Ostrowski, Kansans for Life
Dr. Melissa Hague, M.D.
Sarah M. Gillooly, M.A., Planned Parenthood of Kansas and Mid-Missouri
Tiffany Campbell, KS NOW
Dr. Phil Wood, PhD., Trust Women PAC
Senator Marci Francisco

Others attending:

See attached list.

The Chairman opened the hearings on:

- **HB 2035 -- Amending statutes regulating late-term and partial birth abortion**
- **HB 2218 -- Abortion regulation based on capacity of unborn child to feel pain**
- **SB 146 -- Abortion; late-term and partial birth abortion**
- **SB 165 -- Licensure of abortion clinics**

The Chairman requested that conferees who desired to appear on more than one of the bills to express their comments and testimony in support of, or opposition to, the bills when first recognized.

Jason Long, Office of the Revisor of Statutes, reviewed the bills. In his review he noted that **HB 2035** and **SB 146** contain the same policy, except the House amended **HB 2035** to clarify an amendment to K.S.A. is not to be construed to limit the authority of the State Board of Arts to engage in a disciplinary action.

Robert Allison-Gallimore, Staff Researcher, reviewed the fiscal notes for the bills.

Senator Taddiken testified in support of **SB 146** (Attachment 1). He stated the bill contains many changes to statutes governing late-term and partial birth abortion. He added that he supports the amendments made to **HB 2035** by the House.

Senator Schodorf asked, "Would you object to adding a requirement that the father would be informed of the pregnancy and/or the abortion?"

Senator Taddiken responded, "No objection."

Senator Vratil asked, "Would attorneys fees be awarded to the prevailing side in a civil suit alleging violations of rights as provided by subsection (o) K.S.A. 65-6705?"

Senator Taddiken responded, "I don't know."

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:38 A.M. on March 17, 2011, in Room 548-S of the Capitol.

Senator Vratil asked, “**HB 2035** and **SB 146** would require the promulgation of rules and regulations. How could rules and regulations be adopted before the effective date of the bill?”

Senator Taddiken responded, “The rules and regulations will not be adopted until the bill is in effect.”

Kathy Ostrowski testified in support of **SB 146, SB 165, HB 2035** and **HB 2218** ([Attachment 2](#)). Ms. Ostrowski included suggested amendments in her testimony. She stated that **SB 146** and **HB 2035** would: Require more information and specificity in reports that must be filed by physicians; raise the evidentiary standard for judicial waiver of parental consent; grant the attorney general access to the reports that are required to be filed; give the attorney general standing to file civil suits; require consent of both parents, when possible, when a minor seeks an abortion; improve the process when a minor seeks to bypass her parents; and require a court to report suspected sexual abuse.

Ms. Ostrowski stated that **SB 165** would: Require the reporting of an abortion-related death within one business day of the occurrence; prevent webcam abortions; require all abortions to be performed by a physician; and impose requirements on locations where an abortion may be performed.

Dr. Melissa Hague, M.D. testified in support of **HB 2218** ([Attachment 3](#)). She stated that the bill imposes restrictions on abortions after the 22nd week of gestation due to pain experienced by the fetus during the procedure; an exception is provided if the life of the pregnant woman is threatened, but would require physicians to ensure certain standards are met prior to an abortion procedure. She stated that the reporting requirements of the bill would assist in providing better treatment and care of patients.

Written testimony in support of **SB 146** and **HB 2035** was submitted by Michael Schuttloffel, Executive Director, Kansas Catholic Conference ([Attachment 4](#)); and Judy Smith, State Director, Concerned Women for America of Kansas ([Attachment 5](#)).

Written testimony in support of **SB 165** was submitted by Michael Schuttloffel, Executive Director, Kansas Catholic Conference ([Attachment 6](#)).

Written testimony in support of **HB 2218** was submitted by Michael Schuttloffel, Executive Director, Kansas Catholic Conference ([Attachment 7](#)); and Judy Smith, State Director, Concerned Women for America of Kansas ([Attachment 8](#)).

Sarah M. Gillooly testified in opposition to **SB 146, 165, HB 2035** and **HB 2218** ([Attachment 9](#)). She stated **SB 146** and **HB 2035** would: Create an undue burden on access to abortion care and put women and minors in legal limbo during the period of time between the effective date of the bills and the effective date of rules and regulations adopted to implement the bills; severely limit, if not totally restrict, the ability of the most vulnerable women to access safe, legal health care; have a dramatic fiscal impact on the state; remove the civil immunity provided to physicians who comply with the informed consent requirements of K.S.A. 65-6709 and 65-6710; and place confidential medical information in the hands of elected politicians.

Ms. Gillooly stated that the provisions of **SB 165** were vague, unnecessary, burdensome and contrary to standard medical practice for physicians in Kansas ([Attachment 10](#)).

Ms. Gillooly stated that **HB 2218** is unconstitutional because it: Bans pre-viability abortions; fails to state a constitutionally recognized state interest; and fails to adequately protect a woman’s health ([Attachment 11](#)).

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:38 A.M. on March 17, 2011, in Room 548-S of the Capitol.

Tiffany Campbell testified in opposition to **HB 2218** (Attachment 12).

She stated that if passed, women in Kansas, and their families, would be stripped of their right to make a private medical decision in consultation with their doctor and clergy.

Dr. Phil Wood, PhD. testified in opposition to **SB 146, HB 2035** and **HB 2218** (Attachment 13). He is concerned that the bill defines viability as a stage, which implies that viability is solely a function of gestational age. He stated that there is a difference between a fetus that is “nonviable” and a fetus that is dying.

Written testimony in opposition to **SB 146** and **HB 2035** was submitted by Virginia Phillips, Trust Women PAC (Attachment 14); and Amber Versola, Kansas NOW (Attachment 15).

Senator Marci Francisco testified as a neutral party to **SB 146, 165, HB 2035** and **HB 2218** (Attachment 16). She expressed concern with the definition of gestational age used in the bills. She also expressed concern the requirement that the physician inform the woman in writing “the abortion will terminate the life of a whole, separate unique, living human being.

Written testimony in opposition to **SB 165** was submitted by Virginia Phillips, Trust Women PAC (Attachment 17); Herbert Hodes, M.D., FACOG, Overland Park (Attachment 18).

Written testimony in opposition to **HB 2218** was submitted by Virginia Phillips, Trust Women PAC (Attachment 19); Amber Versola, Kansas NOW (Attachment 20); and Danielle Deaver (Attachment 21).

The Chairman closed the hearings on **SB 146, SB 165, HB 2035** and **HB 2218**.

The Chairman reminded the members of the committee that the meeting scheduled for March 18, 2011, would commence at 8:30 A.M.

Meeting adjourned at 10:29 A.M. The next meeting is scheduled for March 18, 2011.