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Proponent, SB 95

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Good afternoon Chairman Brunk and committee,

I am Kathy Ostrowski, legislative director for Kansans for Life, here to testify about SB 95, the Unborn Child Protection from Dismemberment Abortion Act. This is model legislation carefully crafted by the National Right to Life Committee and tailored for Kansas.

The focus of this bill is the small, living, human unborn child facing a brutal and inhumane dismemberment abortion.

Before the first trimester ends, *(demonstration of 14 wk. LMP actual size model)* the unborn child has a beating heart, brain waves, fingerprints and every organ system in place. She can turn her head… frown… kick … swim… even grasp objects placed in her hand. This information is no secret since ultrasounds have become a routine part of pregnancy care.

In fact, a 2010 research project used 4-D ultrasound to carefully monitor twin babies in utero from the 14th-18th week and concluded that unborn twins execute purposeful movements specifically aimed at the co-twin that were not accidental, including stroking each other for 30% of each day! [Castiello,U. et al; DOI.10.1371/ journal.pone.0013199]

The unborn child from 13 -22 weeks gestation *(see images, attachment 1)* will grow from 4 ½ to 10 inches in length *(demonstration of 20 wk. LMP actual size model)* and is too large to be aborted via suction tube.

Abortions are illegal in Kansas from 22 weeks gestation forward due to the unborn child's pain capability but research continues to show that the physical structures and 'wiring' for pain are functioning before then. Connections between the spinal cord and the thalamus, the region of the brain largely responsible for pain perception in both the unborn child and the adult, begin to form around 12 weeks and are completed by 18 weeks. [Kostovic I, Goldman-Rakic PS: J Comp Neurol 219:431-447, 1983]

According to the Kansas Department of Health and Environment, 582 abortions were performed in 2013, using what is termed the "D&E" (dilation & evacuation or dilation & evacuation) abortion method. *(see attachment 2)* That amounted to 7.8% of total recorded Kansas abortions that year.

In a dismemberment abortion, the abortionist uses "clamps, grasping forceps, tongs, scissors or similar instruments," to repeatedly enter the mother's womb and tear off and remove parts of a living unborn child's body, piece by piece, including crushing and extracting the skull. *(see medical illustration in attachment 3, and testimony of Anthony Levatino, M.D.)*

In *Stenberg v Carhart*, Justice Anthony Kennedy observed that in D&E /dismemberment abortions, "The fetus, in many cases, dies just as a human adult or child would: It bleeds to death as it is torn limb from limb. Defendant

Carhart admitted, "I know that the fetus is alive during the process most of the time because I can see fetal heartbeat on the ultrasound." *(see attachment 4 for more abortionists' quotes on the procedure)*

The contemplation of just one such act of dismembering a living human being is breath-taking, especially in a society that criminalizes animal cruelty. Even now, in this legislative session, House Bill 2030 is being considered, advocating the most humane and painless way to euthanize pets.

The United States Supreme Court in *Gonzales v. Carhart* described dismemberment abortions as a procedure that is "laden with the power to devalue human life," and abortion supporter, Justice Ruth Bader-Ginsburg pointed out, "the standard D&E is in some respects as brutal, if not more," than the partial-birth abortion method.

The Court in *Gonzales* said, "the State may use its regulatory power to bar certain procedures and substitute others, all in furtherance of its legitimate interests in regulating the medical profession in order to promote respect for life, including life of the unborn." *(see attachment 5 for U.S. Supreme Court statements on states' right to regulate)*

Gonzales upheld the ban on partial-birth method abortions citing the findings of Congress that "*not* to prohibit it will further coarsen society to the humanity of not only newborns, but all vulnerable and innocent human life, making it increasingly difficult to protect such life."

In essence, the Supreme Court ruled that a method of abortion could be banned if other methods were available. Other abortion methods *are* available for second-trimester abortion. *(see chart, attachment 2)*

Abortion by dismemberment is currently the dominant method for second-trimester abortion in Kansas, but perhaps that is because it offers, "more predictable timing" and "greater cost savings" according to the 2009 National Abortion Federation Abortion Training Textbook's chapter on D&E.

We are not suggesting that some methods of abortion are morally acceptable. But because it is not legally feasible to ban all abortion, Kansans for Life is recommending that Kansas follow the signals given by the *Gonzales* Court and apply the rationale they used --strike down at least one particularly dehumanizing, and excruciatingly painful, method of killing unborn children.

SB 95 carefully delineates dismemberment abortion to exclude suction abortion. In addition, SB 95 includes a medical emergency exception, criminal and civil penalties, and privacy protection for court proceedings.

Kansans for Life urges committee members to pass the bill out favorably. Thank you, I stand for your questions.

Attachment 1- Ultrasound images of unborn children at 14wk, 16wk, and 20wk LMP

Attachment 2- Table 42, pg 101 http://www.kdheks.gov/hci/as/2013/AS_2013.pdf

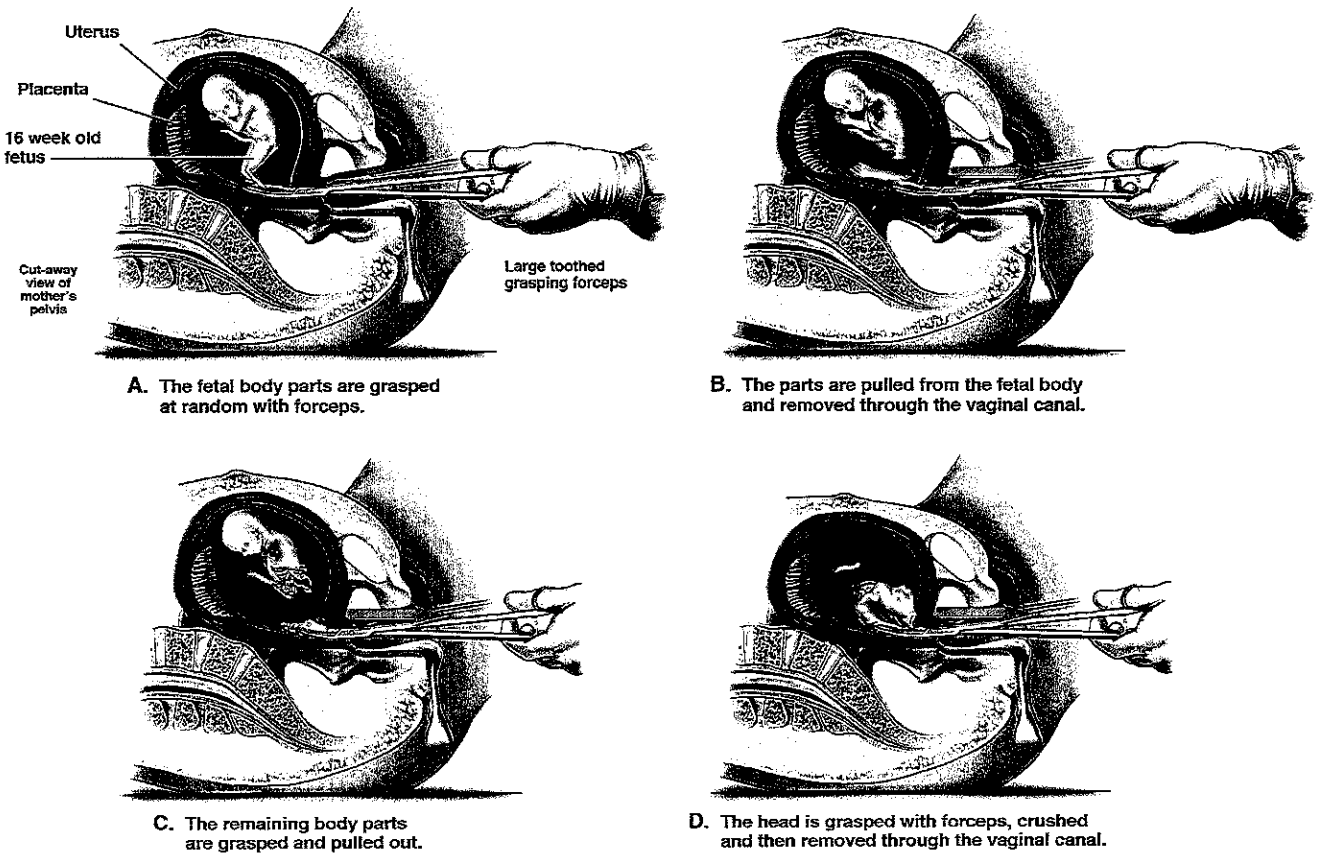
Table 42
Total Reported Abortions by Termination Procedure
by Weeks Gestation
Kansas, 2013

Termination Procedure	Total	Weeks Gestation					
		Under 9	9-12	13-16	17-21	22 & Over	n.s.*
Total	7,485	4,938	1,738	515	290	2	2
Suction Curettage	3,982	2,093	1,666	219	4	0	0
Sharp Curettage	9	8	0	0	1	0	0
Dilation & Evacuation	585	1	3	296	282	1	2
Medical Procedure I†	2,903	2,833	69	0	1	0	0
Medical Procedure II‡	0	0	0	0	0	0	0
Intra-Uterine Prostaglandin Instillation	0	0	0	0	0	0	0
Hysterotomy	0	0	0	0	0	0	0
Hysterectomy	0	0	0	0	0	0	0
Digoxin/Induction	0	0	0	0	0	0	0
"Partial Birth" Procedure	0	0	0	0	0	0	0
Other*	6	3	0	0	2	1	0
n.s.	0	0	0	0	0	0	0

* The not stated (N.S.) represent patients who refused to provide information or information not collected by other states.

Attachment 3- Proportional, accurate rendition by medical text illustrators, Nucleus Medical Media

Dilation and Evacuation Abortion (D&E) of a 16 Week Old Fetus



A. The fetal body parts are grasped at random with forceps.

B. The parts are pulled from the fetal body and removed through the vaginal canal.

C. The remaining body parts are grasped and pulled out.

D. The head is grasped with forceps, crushed and then removed through the vaginal canal.

Attachment 4-

Abortionist Quotes on D&E/Dismemberment Abortion Method

Late-term abortionist LeRoy Carhart used the word "dismember" when describing the D&E method while under oath in the 2000 Stenberg v. Carhart case: ***"My normal course would be to dismember that appendage and then go back and try to take the fetus out whether foot or skull first, whatever end I can get to first... Just pulling and rotation, grasping the portion that you can get hold of which would be usually somewhere up the shaft of the exposed portion of the fetus... I know that the fetus is alive during the process most of the time because I can see fetal heartbeat on the ultrasound."***

Bernard Nathanson, an ex-abortionist who co-founded the group known today as NARAL Pro-Choice America, described the procedure: ***"The D&E is performed by breaking the bag of water with a pointed instrument thrust through the partly dilated cervix, then inserting grasping and tearing instruments into the womb. The fetus is then quartered, the torso isolated and disemboweled. The head is crushed and extracted in pieces. The placenta is located and scraped off the wall of the womb. This completes the procedure save for the abortionist reassembling all the removed parts on a side table adjoining operating table. The fetus must be reconstructed to verify that all the vital parts have been removed with nothing of significance left within the womb to perpetuate bleeding and or become infected. Such late abortions – by whatever means – are no small matter surgically and carry a death rate equal to or exceeding that associated with childbirth that term."***

Jay Kelinson, an abortionist interviewed for the documentary Eclipse of Reason, was asked whether he would do second trimester abortions, D&E's, even for medical reasons. He said, ***"No, absolutely not. That is the most horrifying procedure I can think about. There is just absolutely no way I would ever do that."***

Warren Hern, a Colorado abortionist who has performed numerous D&E abortions and has written a textbook on abortion procedures, has stated, ***"...there is no possibility of denial of an act of destruction by the operator [of a D&E abortion]. It is before one's eyes. The sensation of dismemberment flows through the forceps like an electric current."***

University of Michigan abortionist Lisa Harris admits, ***"Doing second trimester abortions did not get easier after my pregnancy; in fact, dealing with little infant parts of my born baby only made dealing with dismembered fetal parts sadder."***

George Flesh, a former abortionist, wrote, ***"Tearing a developed fetus apart, limb by limb, is an act of depravity that society should not permit. We cannot afford such a devaluation of human life, nor the desensitization of medical personnel it requires. This is not based on what the fetus might feel but on what we should feel in watching an exquisite, partly formed human being dismembered."***

Attachment 5-

U.S. Justice Anthony Kennedy on the States' compelling interests in regulating medicine and banning method of abortion

(emphasis added)

"States also have an interest in **forbidding medical procedures** which, in the State's reasonable determination, **might cause the medical profession or society as a whole to become insensitive, even disdainful, to life, including life in the human fetus.**" *Stenberg v. Carhart*, 530 U.S. 914, 961

"the State may use its regulatory power to **bar certain procedures and substitute others**, all in furtherance of its legitimate interests in regulating the medical profession in order **to promote respect for life, including life of the unborn.**" *Gonzales v. Carhart*, 550 U.S. 124, 158

"Physicians are not entitled to ignore regulations that direct them to use reasonable alternative procedures. The law **need not give abortion doctors unfettered choice** in the course of their medical practice, nor should it elevate their status above other physicians in the medical community." *Gonzales v. Carhart*, 550 U.S. 124, 163

"A State may take measures to **ensure the medical profession and its members are viewed as healers**, sustained by a compassionate and rigorous ethic and cognizant of the dignity and value of human life, **even life which cannot survive without the assistance of others.**" *Stenberg v. Carhart*, 530 U.S. 914, 962

"*Casey* does **not give precedence** to the views of a single physician or a group of physicians **regarding the relative safety** of a particular procedure." *Stenberg v. Carhart*, 530 U.S. 914, 965

"As Justice O'Connor explained in an earlier case, the State may regulate based on matters beyond "what various medical organizations have to say about the *physical* safety of a particular procedure... Where the **difference in physical safety is, at best, marginal, the State may take into account the grave moral issues presented by a new abortion method.**" *Stenberg v. Carhart*, 530 U.S. 914, 967

"The Court has given state and federal legislatures **wide discretion to pass legislation in areas where there is medical and scientific uncertainty.**" *Gonzales v. Carhart*, 550 U.S. 124, 163

"...substantial authority allow[s] the State to take sides in a medical debate, **even when fundamental liberty interests are at stake and even when leading members of the profession disagree with the conclusions drawn by the legislature.** In *Kansas* v. *Hendricks*, 521 U.S. 346 (1997), we held that disagreements among medical professionals "do not tie the State's hands in setting the bounds of ... laws. In fact, it is precisely where such disagreement exists that legislatures have been afforded the widest latitude." *Stenberg v. Carhart*, 530 U.S. 914, 970

"It is a reasonable inference that a necessary effect of the regulation and the knowledge it conveys will be to encourage some women to carry the infant to full term... The **medical profession, furthermore, may find different and less shocking methods to abort** the fetus in the second trimester, thereby accommodating legislative demand." *Gonzales v. Carhart*, 550 U.S. 124, 160