House Federal and State Affairs

Testimony Opposing HCR 5004
Julie Burkhart, Trust Women
Thursday, March 21, 2019

Chairman Barker and members of the Committee - thank you for the opportunity to express my opposition to HCR 5004 today.

My name is Julie Burkhart. I am the founder and CEO of Trust Women. We open clinics that provide abortion services in underserved areas - one of which is in Wichita - and is one of only four clinics in the state to provide abortion care.

With all due respect to the 21 all male sponsors of the bill – I am sure they all sincerely believe in HCR 5004 – I have an important question:

> **How can a proposal to "prohibit the state from discriminating against any class of human beings" be accurate and truthful when it clearly invades Kansas women's medical privacy and denies them individual rights?**

The 21 sponsors may not have realized the full implications of their work: HCR 5004 puts **Kansas women's right to bodily autonomy in danger just because of their potential to become pregnant. There is no way to give embryos personhood rights without infringing on the rights of pregnant women.**

HCR 5004 would eliminate medical choices for women, and not just those about abortion; the bill would limit a woman's ability to make decisions about:

- contraceptive care, like IUDs and emergency contraception
- cancer treatments,
- organ transplants, and,
- in vitro fertilization.

Further, the bill could lead to the investigation and possible prosecution of pregnant people who miscarry. This is not mere speculation. In countries where abortion is illegal, women are regularly prosecuted and jailed for having miscarriages. Women in the United States have been prosecuted for attempting to commit suicide while pregnant.

As well, our 21 sponsors may not realize that the bill they authored is blatantly unconstitutional – and as such, may carry a heavy price tag to defend. The question of **who** is a person in the eyes of the law was central to the *Roe v. Wade* decision. The majority opinion in the case stated,

> "In areas other than criminal abortion, the law has been reluctant to endorse any theory that life, as we recognize it, begins before live birth, or to accord legal rights to the unborn except in narrowly defined situations and except when the rights are contingent upon live birth....In short, the unborn have never been recognized in the law as persons in the whole sense." *Roe v. Wade*, 410 U. S. 113 (1973)

The U.S. Supreme Court went on to state **that the rights of the state to protect fetal life only came into direct conflict and could hold similar weight to a woman's right to privacy past the point of viability where a fetus could live outside of the uterus.**

The 21 sponsors might be surprised to learn that the right to privacy has been found to be supported by the Kansas State Constitution. In *Hodes & Nauser v. Schmidt* (2015), both District Court Judge Larry Hendricks and the Kansas Court of Appeals found that the Kansas Bill of Rights, Articles 1 and 2 contain similar protection for the right to privacy and consequently the right to abortion. In the majority opinion by the Kansas Court of Appeals:

> The district court based its order on provisions of the Kansas Constitution Bill of Rights, concluding that they provide the same right to abortion as the Due Process Clause of the Fourteenth Amendment to the United States Constitution…. [T]he Kansas Supreme Court has said for nearly a century that sections 1 and 2 of the Kansas Constitution Bill of Rights have "much the same effect" as the Due Process and Equal Protection Clauses of the United States Constitution. … And a right to abortion has been recognized under the Due Process Clause of the Fourteenth Amendment to the United States Constitution for more than 40 years….

As found by state and federal courts, the rights of people already living must be weighed against the potential for life in legal decision making. Please consider the real intended - and unintended - consequences on the lives of Kansas women. **HCR 5004 will turn women into second class citizens, whose legal rights are solely determined by their reproductive capacity.**

Further, if the Kansas Legislature wishes to work towards the right to life for its citizens in Kansas, I would make these following recommendations:

1. Expand Medicaid so that more Kansans might receive quality health care.
2. Work to eradicate maternal and infant mortality. Some of our Kansas neighborhoods have some of the nation's highest infant mortality rates.
3. Work to ensure that contraceptive methods, including IUDs and Nexplanon (a contraceptive implant), are broadly available so that all women, regardless of income, can better regulate their fertility.

These are but just a few of the recommendations that - if implemented - would help women lead healthier lives and contribute more equitably towards their right to life.

Thank you for hearing my testimony today. I'll stand for questions.