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January 13, 2021

Kansas State Capitol
300 SW 10th Street
Topeka, Kansas 66612

RE: OPPOSITION TO HOUSE CONCURRENT RESOLUTION NO. 5003

Dear Kansas Senators and Representatives,

The National Women's Law Center (NWLC), based in Washington, D.C., is a nonpartisan, non-profit legal and advocacy organization dedicated to the advancement and protection of women's legal rights and opportunities. The Center strongly opposes House Concurrent Resolution Number 5003 (H.C.R. 5003), which would permit future additional restrictions – and potentially a ban – on abortion. Abortion care is a constitutional right – both under the U.S. Constitution and the Kansas Constitution – and an essential part of basic health care.

The Kansas Supreme Court recently held that the Kansas Constitution includes an independent right to abortion. In its decision, the Court wrote that “Section 1 of the Kansas Constitution Bill of Rights affords protection of the right of personal autonomy, which includes the ability to control one's own body, to assert bodily integrity, and to exercise self-determination. This right allows a woman to make her own decisions regarding her body, health, family formation, and family life— decisions that can include whether to continue a pregnancy.”¹

The role of a constitution, both federal and state, is to protect our rights from infringement. This proposed constitutional amendment does the opposite, by taking away the right to abortion under the Kansas State Constitution. As intended, this constitutional amendment would pave the way for lawmakers to pass medically unnecessary and inappropriate abortion restrictions, including bans, that would prevent many from obtaining the abortion care they need.

Like last year's failed legislation (H.C.R. 5019), this is another clear attempt to eliminate legal abortion in Kansas, a goal that would have serious repercussions for Kansan women. Women seeking abortion care would have to travel out of state to reach an abortion provider. The resulting travel and associated costs would make it difficult, and for many, impossible, to obtain an abortion. In addition to the direct costs, travel drives up the indirect costs of getting an abortion, as do other related expenses, such as child care, time off work, gas or other transportation expenses, and hotel costs.² Many women will be forced to delay the procedure while they save enough money for both the procedure and the additional expenses imposed by travel. And the costs of abortion increase with each week,³ catching women in a vicious cycle where they have to try and save more and more money.

All of the harms imposed by abortion restrictions fall hardest on those who already face multiple barriers to care, such as women struggling to make ends meet, women of color, rural women, and women who already have children.⁴ Women who have abortions are disproportionately poor,⁵ and for these women, the additional costs impose a particularly heavy burden. And some women, like low-wage workers with inflexible schedules and little ability to absorb extra costs, will be put in an untenable position in which the price of obtaining an abortion is a financial crisis, further entrenching existing economic instability. Additionally, Black and Latina women are more likely to experience unintended pregnancy and live below the poverty line, due to racial, ethnic, gender, and economic healthcare inequalities. These women in particular would experience severe consequences of being denied care and forcing them to carry a pregnancy to term or travel long distances to access care could mean falling deeper into poverty. Not to mention the strain that the global pandemic has put on accessing abortion care.⁶

For those women unable to get an abortion as a result of restrictive abortion laws, having a child will have drastic consequences for their future opportunity and equality. As the U.S. Supreme Court has held, “The ability of women to participate equally in the economic and social life of the Nation has been facilitated by their ability to control their reproductive lives.”⁷ Forcing a woman to carry a pregnancy to term can have long-term negative consequences with respect to their economic security, workforce participation, and educational opportunities. A study comparing women who terminated a pregnancy to those who wanted but were unable to obtain an abortion found that one year later women denied an abortion were less likely to be employed in a full-time job and more likely to be living below the federal poverty line.⁸ There was an increased likelihood that women didn’t have enough money to pay for basic family necessities like food, housing and transportation if they were denied an abortion. Women forced to carry a pregnancy to term may also face diminished earnings, interference with their career advancement, disruption of their education, and fewer resources for children they already have.⁹ And women unable to terminate unwanted pregnancies were more likely to stay in contact with violent partners, putting them and their children at greater risk than if they had received the abortion.¹⁰

In a state which ranks in the bottom half of states for the health of women and children, Kansas certainly should work to improve the lives of its constituents.¹¹ Similarly, in Kansas 12.4 per cent of women overall – and 26 per cent of black women and 23 per cent of Native women – live in poverty. These statistics, which rank more poorly than the national averages, demonstrates an area in which Kansas could actually improve the lives of women and children.¹² There are many actions lawmakers could take to protect and help its constituents, but banning abortion isn’t one of them.

For these reasons, the National Women’s Law Center strongly opposes H.C.R. 5003. Moving this attempt to limit health care forward now—in the midst of a global pandemic and accompanying economic crisis, when people’s health, lives, and livelihoods is on the line—is



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unconscionable. Lawmakers should be doing everything possible to protect people's rights and access to health care, not take them away. Please do not allow this dangerous constitutional amendment to advance.

Sincerely,

Priya Wallia, Counsel* for Reproductive Rights and Health
National Women's Law Center

**Not admitted to practice in DC; working under supervision of DC Bar members. Admitted in Ohio; DC bar application pending.*

¹ Hodes & Nauser v. Schmidt, 440 P.3d 461, 502 (2019) (holding that “the Kansas Constitution Bill of Rights affords protection of the right of personal autonomy,” which includes the choice to obtain an abortion).

² See Brief of Amici Curiae Nat’l Women’s Law Ctr. et al. in Support of Petitioners at 16-18, *Woman’s Health v. Hellerstedt*, 136 S. Ct. 2292 (2016) (No. 15-274), <https://nwlc.org/resources/45623-2/>.

³ Jenna Jerman & Rachel K. Jones, *Secondary Measures of Access to Abortion Services in the United States*, 2011 and 2012, 24 *Women’s Health Issues* e419, e421–22 (2014).

⁴ See Brief of Amici Curiae Nat’l Women’s Law Ctr. *supra* note 2 at 12.

⁵ Rachel K. Jones & Megan L. Kavanaugh, *Changes in Abortion Rates Between 2000 and 2008 and Lifetime Incidence of Abortion*, 117 *Obstetrics & Gynecology* 1358, 1362 (2011).

⁶ NATIONAL WOMEN’S LAW CENTER, *The Coronavirus Crisis Is Exposing the Fragility of Abortion Access*, <https://nwlc.org/blog/the-coronavirus-crisis-is-exposing-the-fragility-of-abortion-access/>.

⁷ *Planned Parenthood of Se. Pa. v. Casey*, 505 U.S. 833, 856 (1992).

⁸ Women denied an abortion had almost four times greater odds of a household income below the federal poverty level and three times greater odds of being unemployed. *Turnaway Study*, BIXBY CENT. FOR GLOBAL REPROD. HEALTH <https://www.ansirh.org/research/turnaway-study>; Diana Greene Foster, *Presentation at the American Public Health Association Annual Meeting & Expo: Socioeconomic Consequences of Abortion Compared to Unwanted Birth* (Oct. 30, 2012), <https://apha.confex.com/apha/140am/webprogram/Paper263858.html>.

⁹ See Brief of Amici Curiae Nat’l Women’s Law Ctr. *supra* note 2 at 36-37.

¹⁰ See *id.*

¹¹ America’s Health Rankings, https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/maternal_mortality_a/state/KS.

¹² NWLC calculations based on 2018 American Community Survey, 1-year estimates, <https://nwlc.org/state/kansas/>. See also, Amanda Fins, *National Snapshot: Poverty among Women & Families, 2019* (Oct. 2019), <https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2019/10/PovertySnapshot2019-1.pdf>