

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS.

The meeting was called to order by Chairman Tony Powell at 1:30 p.m. on January 20, 2000 in Room 313-S of the Capitol.

All members were present.

Committee staff present:

Theresa Kiernan, Revisor of Statutes
Russell Mills, Legislative Research
Mary Galligan, Legislative Research
Winnie Crapson, Secretary

Conferees appearing before the committee:

Rep. Vining, Proponent
Sen. Harrington, Proponent
Jared Pingleton, Ph. D., Proponent
David Gittrich, Kansans for Life, Proponent
Beatrice Swoopes, Kansas Catholic Conference, Proponent
Karyl Graves, Wee Life Inc., Proponent
Catherine Miglionico, R.N., Proponent
David Riley, M.D., Proponent
Mary Petrow, Opponent
Gloria Schlossenberg, Opponent
The Rev. George Gardner, Religious Leaders for Choice, Opponent
Barbara Duke, Kansas Choice Alliance and American Association of University Women, Opponent
Barbara Holzmark, National Council of Jewish Women, Opponent
Carla Norcott-Mahany, Planned Parenthood of Kansas and Mid-Missouri, Opponent

Written testimony was distributed from:

Concerned Women of America, Proponents
League of Women Voters of Kansas, Opponents
Mainstream Coalition, Opponents

Others attending: See attached list.

Hearing was opened on

HB 2581, Abortion; partial birth abortion; limitations.

Rep. Vining testified in favor of the bill (Attachment #1). She stated the language in the bill is the same as that in Wisconsin and Illinois statutes found to be constitutional by the 7th Circuit in *Hope Clinic v. Ryan*, 195 F.3d 857 (1999). That Court recognized the term "partial birth abortion procedure" as being the layperson's definition for D&X (dilation and extraction). She provided from 112 *Harvard Law Review* 731 Case Notes on *Women's Medical Professional Corp. v. Voinovich*, 130 S 3d 187 (6th Cir 1997).

Sen. Harrington testified in favor of the bill (Attachment #2). She stated the language is identical to that in SB367 which she introduced in the Senate which is a model fashioned from the Congressional language. She stated there appear to be two core controversies surrounding the partial birth abortion debate: the actual procedure itself, and whether states have a right to ban the procedure. She reviewed the opinion of Judge Frank Easterbrook writing for the majority in the 7th Circuit decision in *Hope Clinic*.

Dr. Jared Pingleton, a Licensed Clinical Psychologist, testified and presented written testimony in favor of the bill (Attachment #3). His testimony stated with regard to "Mental Health Exceptions for Late Term Abortion Legislation", the law as currently written which allows for a late-term abortion for the "mental health" of the mother functionally permits persons who are not licensed, trained or experienced in the diagnosis and treatment of psychological disorders to make such psychological diagnoses and that no provision is made for the treatment of these supposed, unspecified mental health disorders.

CONTINUATION SHEET

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Dr. David Riley, a Family Physician from Overland Park, whose practice encompasses all aspects of family medicine, including obstetrics, testified in favor of **HB 2581** (Attachment #4). He stated that the whole idea of partial birth abortion is abhorrent and from a medical standpoint he can conceive of no circumstance where it would be necessary for the health of the mother; and that the procedure involved carries with it several risks. He finds the "mental health" reason for this difficult to imagine.

David Gittrich, Executive Director of Kansans for Life, testified in favor of the bill (Attachment #5). Kansans for Life is a pro-life organization of people who want legal protection for every human being from conception to natural death. They unanimously, without exception, want partial birth abortions banned because the procedure is abhorrent and should not be legal in Kansas.

Beatrice E. Swoopes, Acting Executive Director of the Kansas Catholic Conference, testified in favor of the bill (Attachment #6). She said the Kansas Catholic Conference has been on record in supporting a ban on partial birth abortion since its initial introduction in the Kansas Legislature. Specifically they have supported the federal language passed by both Houses of Congress, the language after which **HB 2581** is patterned.

Karyl Graves testified in favor of the bill on behalf of Wee Life, Incorporated, a non-profit organization dedicated to re-establishing constitutional protection and fetal rights for the pre-born (Attachment #7).

Catherine Miglionico, RN, testified in favor of the bill (Attachment #8). She described experiences working as a nurse.

Mary V. Petrow testified in opposition to the bill (Attachment #9). She described her pregnancy in 1990 which ended tragically.

Gloria Schlossenberg testified in opposition to the bill (Attachment #10). She described her experience with a pregnancy. The child was born dead.

The Rev. George Gardner, testified in opposition to the bill (Attachment #11). As Co-Chair he represented Kansas Religious Leaders for Choice, an interfaith group of men and women, clergy and laity, who believe that women should have the right to reproductive choice including the right to an abortion guaranteed in *Roe v. Wade*.

Barbara Duke, presented testimony in opposition to the bill (Attachment #12). She represented 1500 members of the Kansas Association of University Women and the twenty diverse organizations that make up the Kansas Choice Alliance. She thinks it would be wise to wait for the decision of the U. S. Supreme Court on Nebraska's similar ban on partial birth abortion before amending Kansas' current law.

Barbara Holzmark, Kansas Public Affairs Chair of the Greater Kansas City Section of the National Council of Jewish Women, testified in opposition to the bill (Attachment #13). NCJW believes each woman can be trusted with decisions that pertain to her own reproductive health concerns and believes this is not the time to legislate on this matter with the Supreme Court reviewing the Nebraska law.

Carla Norcott-Matheny presented the testimony of Erika Fox, Vice President for Public Policy of Planned Parenthood of Kansas and Mid-Missouri, in opposition to the bill (Attachment #14). PPKM-M believes that prior to the decision by the Supreme Court it is highly irresponsible for the Kansas Legislature to consider passing a new law that is almost identical to the Nebraska law the Supreme Court is reviewing.

Written testimony was submitted by Concerned Women of America in favor of **HB 2581** (Attachment#15).

Written testimony was submitted by the League of Women Voters of Kansas in opposition to the bill (Attachment #16).

Written testimony was submitted by Ann Heberger of Main Stream Coalition in opposition to the bill (Attachment #17).

HB 2581 was discussed by the committee.

Representative Klein asked Representative Vining if the bill proposes to ban only the D&X procedure. He believes it is written in such a way that is not clear. Rep. Vining said the language is from National Right to Life based upon what is considered constitutional.

Representative Cox stated the bill did not contain the word "ban". Chairman Powell stated since a partial birth abortion is never medically necessary to preserve the life of the mother, that does ban it..

Representative Rehorn had technical questions concerning parties in possible civil actions. Chairman Representative Powell said Representative Rehorn's interpretation seemed plausible that a civil action could be maintained by the mother or father whether or not the mother is 18 and by grandparents if the mother is under 18. Rep. Vining stated she believed there needed to be an interpretation of that.

Representative Mays addressed questions to Rev. Gardner concerning the position of the United Methodist Church and other denominations. Rev. Gardner stated there are a variety of points of view among denominations as interpreted from their history and doctrine and how their faith has come down to them.

Representative Burroughs distributed a letter addressed to him from Betty Jane Anderson, Special Counsel, Health Law Division of the American Medical Association, dated January 20, 2000, stating that the American Medical Association does not take positions on state legislative proposals (Attachment 18).

Chairman Powell declared the hearing on **HB 2581** closed and the Committee adjourned at 3:30 p.m. The next scheduled meeting is January 24.