HB

65

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: January 13, 1997 FURTHER REFERRALS: Judiciary

Date of Committee Action: 2/20/97

The STATE AFFAIRS Committee considered: HB 65

HOUSE BILL NO. 65 PARTIAL-BIRTH ABORTIONS

"An Act relating to partial-birth abortions."

recommends it be replaced [ ] the same title
with the following committee substitute _____ [ ] a new title

[ ] additional referral to _____ Committee
[ ] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Dept/Date)

[✓] fiscal note(s) Admin [ ] fiscal note(s) _____

[✓] zero fiscal note(s) HSS [ ] zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
Jeannette James	✓			
Nathan A. Rex		✓		
Mike Dunleavy	✓			
Fred Dyson	✓			
[illegible]	✓			
[illegible]			✓	

CHAIR'S SIGNATURE Jeannette James

Alaska State Legislature
House of Representatives

COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE, CHAIRMAN
MILITARY & VETERANS AFFAIRS, CHAIRMAN
COMMUNITY & REGIONAL AFFAIRS
RESOURCES
INTERNATIONAL TRADE / TOURISM
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SPONSOR STATEMENT
HB 65

Partial-birth abortions, which typically occur in late-term pregnancies, involve the following steps: First, the abortionist locates the baby's leg and pulls it into the birth canal; Second, the entire baby is delivered except the head; Third, scissors are inserted into the live baby's head and the hole enlarged; Fourth, a suction catheter is inserted into the hole and the baby's brains are sucked out, thereby collapsing the skull; Finally, the dead baby is completely removed.

In testimony before the US House of Representatives Judiciary Committee, Nurse Shafer described her experience of partial-birth abortions as follows:

> "...His little fingers were clasping together. He was kicking his feet. All the while his little head was still stuck inside. [The doctor takes] a pair of scissors and insert[s] them into the back of the baby's head. Then he opened the scissors up. Then he stuck the high-powered suction tube into the hole and sucked the baby's brains out."

This gruesome and hideous procedure, which but for a few centimeters would be punishable as infanticide, would be outlawed by HB 65, as unworthy of civilized people. Such behavior coarsens our society, undermines people's trust in the medical profession, and blurs the legal distinction between abortion and homicide.

HB 65 makes it a felony for a person to perform a partial-birth abortion, except where necessary to save the life of the mother. While leaving intact the right to all other types of abortion procedures, HB 65 punishes the abortionist but not the mother.

Partial-birth abortions are not something that we need in the State of Alaska. Your support of HB 65 is urged.

Representative Pete Kott

Alaska State Legislature
House of Representatives

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SECTIONAL ANALYSIS
HB 65

Section 1: Makes partial-birth abortions illegal, except where necessary to save the life of the mother; exempts the mother from prosecution; defines "partial-birth abortion as the act of partially vaginally delivering a living fetus before killing it and completing the delivery.

Representative Pete Kott

Alaska State Legislature
House of Representatives

COMMITTEE ASSIGNMENTS:

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TO: Representative Jeannette James
Chair
House State Affairs Committee

FROM: Representative Pete Kott
Chair
House Rules Committee

DATE: January 16, 1996

RE: Hearing Request; HB 65

I respectfully request that you schedule, at your earliest convenience, HB 65 for a hearing before the House State Affairs Committee. I enclose herewith a copy of the bill, a Sponsor Statement, a Sectional Analysis, and some backup material. Fiscal notes have been ordered from the Department of Law, the Court System, the Department of Corrections, and the Department of Public Safety.

HB 65 would prohibit partial-birth abortions in the State of Alaska, except where necessary to save the life of the mother. All other forms of abortion remain unaffected by this bill, and mothers are specifically exempted from prosecution.

I request that the hearing be teleconferenced from Anchorage, Fairbanks, and the Mat-Su.

Thank you for your kind consideration of this matter.

IRENE S. LOHKAMP, M.D.
BOARD CERTIFIED IN FAMILY PRACTICE

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TELEPHONE: (907) 272-3366
FAX: (907) 272-0269

February 16, 1997

Regarding: H.B. 65

Dear Representative Kott:

I am a physician in private practice specializing in family medicine. I agree that partial birth abortions should be outlawed in Alaska as stated in Section 18.16.050. This is not the only method available for inducing abortion in the 2nd and 3rd trimester.

As you already know, this procedure is used in late term pregnancy just prior to and beyond gestational age viability.It probably is not successful earlier because the baby's sinews are too delicate to tolerate the traction required to pull the lower extremities and trunk out of the uterus and vaginal canal. The baby is intentionally rotated into breach position, extracted through the birth canal, with the head last remaining within the canal (often forcibly held within) to perform the cranial evacuation that terminates the baby's life functions.

This procedure has met with profound controversy by medical professionals and the general public alike because of its shocking violence and appearance of being infanticide. This procedure is not the sole method of achieving late term abortion. There are other methods available which have been practiced for many years before this procedure was developed. These are as safe, and possibly safer, for the mother. Banning partial birth abortions would still preserve the health of the mother and be protective of her rights.

Please sustain a ban on partial birth abortion in Alaska.

Sincerely yours,

Irene Lohkamp MD

Irene Lohkamp, M.D.

AMERICAN MEDICAL NEWS

Published by the AMA →

American Medical
NEWS

Published by the American Medical Association/515 North State Street/Chicago, Illinois 60610/(312) 464-5000
Barbara Bolsen, Editor

July 11, 1995

Material on Dr. Martin Haskell

The Hon. Charles T. Canady
Chairman, Subcommittee on the Constitution
Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn House Office Bldg.
Washington, D.C. 20515-6216

Dear Representative Canady:

We have received your July 7 letter outlining allegations of inaccuracies in a July 5, 1993, story in American Medical News, "Shock-tactic ads target late-term abortion procedure."

You noted that in public testimony before your committee, AMNews is alleged to have quoted physicians out of context. You also noted that one such physician submitted testimony contending that AMNews misrepresented his statements. We appreciate your offer of the opportunity to respond to these accusations, which now are part of the permanent subcommittee record.

AMNews stands behind the accuracy of the report cited in the testimony. The report was complete, fair, and balanced. The comments and positions expressed by those interviewed and quoted were reported accurately and in-context. The report was based on extensive research and interviews with experts on both sides of the abortion debate, including interviews with two physicians who perform the procedure in question.

We have full documentation of these interviews, including tape recordings and transcripts. Enclosed is a transcript of the contested quotes that relate to the allegations of inaccuracies made against AMNews.

Let me also note that in the two years since publication of our story, neither the organization nor the physician who complained about the report in testimony to your committee has contacted the reporter or any editor at AMNews to complain about it. AMNews has a longstanding reputation for balance, fairness and accuracy in reporting, including reporting on abortion, an issue that is as divisive within medicine as it is within society in general. We believe that the story in question comports entirely with that reputation.

Thank you for your letter and the opportunity to clarify this matter.

Respectfully yours,

Barbara Bolsen

Barbara Bolsen
Editor

Attachment

American Medical News transcript - page 1

Relevant portions of recorded interview with Martin Haskell, MD:

AMN: Let's talk first about whether or not the fetus is dead beforehand...

Haskell: No it's not. No, it's really not. A percentage are for various numbers of reasons. Some just because of the stress -- intrauterine stress during, you know, the two days that the cervix is being dilated. Sometimes the membranes rupture and it takes a very small superficial infection to kill a fetus in utero when the membranes are broken. And so in my case, I would think probably about a third of those are definitely are (sic) dead before I actually start to remove the fetus. And probably the other two-thirds are not.

AMN: Is the skull procedure also done to make sure that the fetus is dead so you're not going to have the problem of a live birth?

Haskell: It's immaterial. If you can't get it out, you can't get it out.

AMN: I mean, you couldn't dilate further? Or is that riskier?

Haskell: Well, you could dilate further over a period of days.

AMN: Would that just make it... would it go from a 3-day procedure to a 4- or a 5-?

Haskell: Exactly. The point here is to effect a safe legal abortion. I mean, you could say the same thing about the D&E procedure. You know, why do you do the D&E procedure? Why do you crush the fetus up inside the womb? To kill it before you take it out?

Well, that happens, yes. But that's not why you do it. You do it to get it out. I could do the same thing with a D&E procedure. I could put dilapan in for four or five days and say I'm doing a D&E procedure and the fetus could just fall out. But that's not really the point. The point here is you're attempting to do an abortion. And that's the goal of your work, is to complete an abortion. Not to see how do I manipulate the situation so that I get a live birth instead.

AMN, wrapping up the interview: I wanted to make sure I have both you and (Dr.) McMahon saying 'No' then. That this is misinformation, these letters to the editor saying it's only done when the baby's already dead, in case of fetal demise and you have to do an autopsy. But some of them are saying they're getting that information from NAF. Have you talked to Barbara Radford or anyone over there? I called Barbara and she called back, but I haven't gotten back to her.

Haskell: Well, I had heard that they were giving that information, somebody over there might be giving information like that out. The people that staff the NAF office are not medical people. And many of them when I gave my paper, many of them came in, I learned later, to watch my paper because many of them have never seen an abortion performed of any kind.

AMN: Did you also show a video when you did that?

Haskell: Yeah. I taped a procedure a couple of years ago, a very brief video, that simply showed the technique. The old story about a picture's worth a thousand words.

AMN: As National Right to Life will tell you.

Haskell: Afterwards they were just amazed. They just had no idea. And here they're rabid supporters of abortion. They work in the office there. And...some of them have never seen one performed...

Comments on elective vs. non-elective abortions:

Haskell: And I'll be quite frank: most of my abortions are elective in that 20-24 week range... In my particular case, probably 20% are for genetic reasons. And the other 80% are purely elective...

FACT SHEET: PARTIAL-BIRTH ABORTIONS
MEDICALLY NECESSARY?

Those who oppose the Partial Birth Abortion Ban Act (HR 1833) sometimes claim that partial birth abortions are necessary to preserve a mother's health or future ability to have children. The medical evidence to the contrary is overwhelming:

-- Dr. Pamela E. Smith, Director of Medical Education, Department of Obstetrics and Gynecology, Mt. Sinai Hospital, Chicago testified before the U.S. Senate: "There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the life or health of the mother." [Senate hearing record, p. 82]

--Dr. Harlan R. Giles, a professor of "high-risk" obstetrics and perinatology at the Medical College of Pennsylvania, performs abortions by a variety of procedures up until "viability." In sworn testimony in the U.S. Federal District Court for the Southern District of Ohio (Nov. 13, 1995), Professor Giles said:

> [After 23 weeks], I don't think there are any maternal conditions that I'm aware of that mandate ending the pregnancy that also require that the fetus be dead or that the fetal life be terminated. In my experience for 20 years, one can deliver these fetuses either vaginally, or by Cesarean section for that matter, depending on the choice of the parents with informed consent. . . But there's no reason these fetuses cannot be delivered intact vaginally after a miniature labor, if you will, and be at least assessed at birth and given the benefit of the doubt. [transcript, p. 240]
>
> ...
>
> And I cannot think of a fetal condition or malformation, no matter how severe, that actually causes harm or risk to the mother of continuing the pregnancy. I guess one extremely rare example might be a partial hydatidiform mole. But that's a one in a million situation. In most cases mothers [are] carrying an abnormal fetus such as with Down's syndrome, anencephaly, the absence of a brain itself, dwarfism. Other severe even lethal chromosome abnormalities, those mothers if you follow their pregnancy have no higher risk of pregnancy complications than for any other mother who's progressing to term for a delivery. [transcript 241–42]

--Some claim partial birth abortion is needed when a baby suffers from severe hydrocephalus (enlargement of the head due to excess fluid on the brain). But an eminent authority on such

matters, Dr. Watson A. Bowes, Jr., professor of obstetrics and gynecology at the University of North Carolina, and co-editor of the *Obstetrical and Gynecological Survey*, wrote to Congressman Canady:

> Critics of your bill who say that this legislation will prevent doctors from performing certain procedures which are standard of care, such as cephalocentesis (removal of fluid from the enlarged head of a fetus with the most severe form of hydrocephalus) are mistaken. In such a procedure a needle is inserted with ultrasound guidance through the mother's abdomen into the uterus, and then into the enlarged ventricle of the brain (the space containing cerebrospinal fluid). Fluid is then withdrawn which results in reduction of the size in the head so that delivery can occur. This procedure is not intended to kill the fetus, and, in fact, is usually associated with the birth of a live infant.

--Dr. James Jones, chairman of the department of obstetrics and gynecology at the New York Medical College, has stated that he "can't think of any situation where you would have to carry out a specific, direct attack on the fetus." With regard to the partial birth procedure, he said that he "can't imagine that being an indicated procedure for the saving of a life or well-being of the mother." [*Catholic New York*, 5/2/96]

--In an article in the *American Medical News* ["Outlawing abortion method," 11/20/1995], Dr. Warren Hern, late-term abortion provider and author of the nation's most widely used textbook on late-term abortions said of the partial birth procedure: "You really can't defend it. . . . I would dispute any statement that this is the safest procedure to use." He noted that turning the fetus to a breech position is "potentially dangerous," and added: "You have to be concerned about causing amniotic fluid embolism or placental abruption if you do that."

--The American Medical Association's legislative council voted unanimously to recomend that the AMA endorse the Partial Birth Abortion Ban Act. While the entire AMA remained neutral on the act, the council concluded that the procedure is "not a recognized medical technique," "almost does not exist in the medical literature," and is a "basically repulsive" procedure. [*Congress Daily*, 10/10/95, p. 1].

PHACT

Physicians' Ad Hoc Coalition for Truth

"...They will rip your bodies to shreds and you could never have another baby even though the baby you were carrying couldn't live."
-- President Clinton, as to why partial birth abortion must remain available.

The Physicians' Ad-hoc Coalition for Truth (PHACT) about partial-birth abortion brings together experts in the fields of obstetrics and gynecology, perinatology and fetal and maternal medicine for one purpose: to bring the medical facts to bear on the public policy debate over partial-birth abortion.

As practitioners and teachers of a medical specialty that must, at all times, be responsible for the well-being of two patients -- mother and child -- we feel compelled to take this course of action in order to counter the very widespread and dangerous misstatements, misperceptions and outright distortions surrounding this procedure.

The most serious such distortion is the claim, now endorsed by President Clinton, that a partial-birth abortion can be *medically necessary* to protect the health of a women carrying a child diagnosed with severe genetic disabilities, and to also protect that woman's future fertility and ability to carry other children.

There is no medical basis for such an assertion. Given the many potential risks the procedure entails for the mother, far from ever being medically indicated, partial-birth abortion is actually *counter*-indicated. Far from ever being a medical necessity, partial-birth abortion is not even a procedure recognized by the medical community, including the American College of Obstetricians and Gynecologists. Statements by practitioners of partial-birth abortion indicate that the vast majority of such procedures are elective in nature. There is only one reason to ever consider the partial-birth abortion procedure "necessary:" to ensure the delivery of a dead child rather than a living one.

Because of the dangers posed to women, the distortions regarding the so-called "medical necessity" of partial-birth abortion must not be allowed to stand. Already we have seen the harm done to women by other false statements made by those who defend partial-birth abortions. Proponents of partial-birth abortion have claimed, for example, that the anesthesia given the woman kills the child in her womb even before the procedure begins. Though leading experts in the field of anesthesiology have repeatedly denounced this claim, the media have repeated it often enough to frighten some pregnant women in need of surgery. The medical community's efforts to dispel this lie have gone largely unreported.

As members of the Physicians' Ad-hoc Coalition for Truth (PHACT) about Partial-Birth Abortion, we will take every opportunity presented to correct the misinformation and educate the public as to the medical facts regarding the partial-birth abortion procedure. We ask our fellow professionals in the field of journalism and communications in particular to give these facts the attention they deserve by reporting them in a clear, evenhanded and objective fashion.

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7/24/96

PHACT

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SCIENCE FACT VS. SCIENCE FICTION:

DOCTORS REPORT THE MEDICAL FACTS ABOUT PARTIAL-BIRTH ABORTION

"People deserve to know that the partial-birth abortion is never medically indicated either to save the health of a woman or preserve her future fertility."
-- Dr. Nancy Romer, FACOG, Chairman, Dept. of Obstetrics and Gynecology, Miami Valley Hospital, Ohio

(Following are highlights from a July 24 Congressional Briefing by the Physicians' Ad-hoc Coalition for Truth (PHACT) about partial-birth abortion):

On the Claimed "Medical Necessity" of this Procedure:

"I am insulted to be told that I am tearing women's bodies apart by not doing this procedure. I am not. ...As physicians, we can no longer stand by while abortion advocates, the President of the United States and newspapers and television shows continue to repeat false medical claims to members of Congress and to the public."
-- Dr. Nancy Romer

"This procedure is currently not an accepted medical procedure. A search of medical literature reveals no mention of this procedure and there is no critically evaluated or peer review journal that describes this procedure. ...There is currently also no peer review or accountability of this procedure. It is currently being performed by a physician with no obstetric training in an outpatient facility behind closed doors and no peer review."
-- Dr. Nancy Romer

On Claims that Unborn Children with Certain Disabilities* Must *be Aborted by the Partial-Birth Method to Preserve Their Mother's Health or Fertility.

In vetoing the Partial-Birth Abortion Ban, President Clinton showcased the stories of 5 women who, he said "had to make a life-saving -- certainly, health saving -- but still tragic decision" to have partial-birth abortions, given the severe disabilities suffered by the children they carried. He said that "their own lives, their health, and in some cases their capacity to have children in the future were in danger" on account of these children. Six weeks later, the President defended the necessity of partial-birth abortion on the grounds that, without it, these women would be "eviscerated," their bodies "ripped...to shreds and you could never have another baby, even though the baby you were carrying couldn't live." The conditions suffered by the aborted children included: hydrocephalus, polyhydramnios, Trisomy 13, and anencephaly.

Responding to these specific claims, medical experts from PHACT made clear:

1. "[T]hese are honest women who were sadly misinformed and whose decision to have a partial birth abortion was based on a great deal of misinformation."
-- Dr. Joseph DeCook

2. "[T]he presence of *fetal disabilities or fetal anomalies* are not a reason to have a termination of pregnancy to preserve the life of the mother."

-- Dr. Curtis Cook

3. Regarding "a *genetic abnormality* where there is an extra chromosome or a *Trisomy*...These abnormalities do not pose a risk to the mother per se, do not require early delivery, and can be safely delivered vaginally by methods that we use on a regular basis."

-- Dr. Curtis Cook

4. Regarding "*hydrocephalus*...excessive cerebral-spinal fluid... that causes a very large-shaped head in proportion to the rest of the body. ...These patients can be safely delivered by cesarean section. They can even be delivered safely vaginally. We can do that by first decompressing some of the fluid around the baby's head. ...Again, the baby can be delivered safely, without a risk to the mother, and without a risk to her fertility."

-- Dr. Curtis Cook

5. Regarding "*polyhydramnios*...an excessive amount of amniotic fluid around the baby. ...They can be delivered vaginally, safely, and in the need for it in such situations, a cesarean section can be performed."

-- Dr. Curtis Cook

On Claims for the "Safety" of the Partial-Birth Abortion Procedure

-- *"[The procedure] sounds like science fiction. It ought to be science fiction!"*

-- *"It is a maverick medical procedure made up by maverick doctors for the purpose of delivering a dead fetus."*

-- Dr. Joseph DeCook

1. "Dilation [forcible opening] of the cervix" -- the first step -- risks creating the condition of "incompetent cervix," which is "the main cause of subsequent infertility." It also risks "infection of the mother" given that the uterus is a "non-sterile environment" exposed by dilation.

-- Dr. Joseph DeCook

2. "Podalic version" -- reaching into the uterus to pull the baby feet first through the cervix -- the second step-- is a very dangerous procedure," "frightening" because of the chance that it might "rupture" or "tear the uterus." This is the "reason this was abandoned 30 or more years ago."

There is also the danger of "perforating the uterus" with the instrument used to grab the baby's leg.

-- Dr. Joseph DeCook

3. The third step of partial-birth abortion --"putting the scissors through the cortical magnum, spread them and out comes the brain" -- is extremely dangerous given that this step exposes "sharp shards of bone," which, if scraped against the uterus, with its "immense blood supply" would cause "deep shock in 3 or 4 minutes" and would "totally pump out [the mother's] blood supply in ten minutes."

-- Dr. Joseph DeCook

PHACT

DATE: July 24, 1996
CONTACT: 703/683-5004

MEDIA ADVISORY

Physicians' Ad Hoc Coalition for Truth

PHYSICIANS' CONGRESSIONAL BRIEFING TODAY IN ADVANCE OF PARTIAL BIRTH ABORTION VETO OVERRIDE

President Clinton has publicly endorsed the medical conclusion that women carrying children diagnosed with certain severe genetic abnormalities have no medical choice but partial birth abortion. He has stated that without partial birth abortion, a mother of such a child risks having her body ripped "to shreds," with the result that "you can never have another baby even though the baby you were carrying couldn't live."

Women who've been in this situation, yet did not have the partial birth abortion, are concerned about the President's medical misstatements and inaccurate claims, which are potentially dangerous to women and their children. These women will also brief Congressional Members.

WHAT: Leading doctors in the fields of obstetrics and perinatology have formed the Physicians' Ad-hoc Coalition for Truth (PHACT) about Partial Birth Abortion. Physicians from the coalition will brief members of Congress on the medical facts regarding the procedure: that partial birth abortion is *never* medically indicated for women, even in cases of severe fetal abnormality; it is not even a procedure recognized by the medical community or the American College of Obstetricians and Gynecologists (ACOG).

WHO: Members from PHACT who will conduct the briefing are **Dr. Curtis Cook**, Maternal Fetal Medicine, Buttersworth Hospital, Michigan State College of Human Medicine; **Dr. Nancy Romer**, fellow ACOG, clinical professor in Dept. of Ob/Gyn at Wright State University School of Medicine, and Chair, Dept of Ob/Gyn of Miami Valley Hospital (both in Dayton, OH); **Dr. Joseph L. DeCook**, Fellow, American College of Obstetricians and Gynecologists, Grand Rapids, MI.

The physicians will be joined by five women who found they were carrying children with conditions incompatible with life outside the womb, such as anacephaly, Trisomy, encephaloceles and body stalk anomaly. None of these women had an abortion, and none suffered serious health consequences or saw their fertility impaired. They will share their personal experiences, and release correspondence to President Clinton seeking a meeting to correct the President's medical misstatements.

Representatives Charles Canady (R-FL), author of the Partial Birth Abortion Ban Act, and **Tom Coburn (R-OK)**, himself a practicing ob/gyn, will host the briefing.

WHEN: Wednesday, July 24, 1996, 2 - 3 p.m

WHERE: Room 2237 Rayburn House Office Building

CONTACT: Gene Tarne or Michelle Powers (703) 683-5004

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The Washington Times

★ THURSDAY, JULY 25, 1996 ★

Doctors deny health value of late abortions

By Julia Duin
THE WASHINGTON TIMES

President Clinton is preaching medical nonsense by claiming that a form of late-term abortion protects a mother's health or fertility, three physicians said yesterday.

"So many physicians like myself watch in disbelief as false medical facts about partial-birth abortions get circulated in the public square," Dr. Nancy Romer, a Dayton, Ohio, obstetrician, said at a briefing to announce the founding of the Physicians Ad-hoc Coalition for Truth (Phact).

"In fact," she said, "there's a lot of evidence they may do harm to women."

Phact, to be based in Alexandria, aims to counteract pro-choice claims about partial-birth abortion, in which a doctor delivers an unborn child feet first up to its neck, punctures the skull and sucks out the brain.

She and two Michigan doctors said they were most incensed by the president's claim that such abortions are medically necessary for mothers of deformed children.

Mr. Clinton made this argument in his April 10 veto statement on the Partial Birth Abortion Ban Act. The ceremony featured five women who said they underwent such abortions for health reasons.

"These were honest women who were sadly misinformed," said Dr. Joseph DeCook, a Grand Rapids, Mich., obstetrician. "There is no literature that testifies to the safety of partial-birth abortion. It's a maverick procedure devised by maverick doctors who wish to deliver a dead fetus."

Instead of protecting a woman's fertility, such abortions endanger it by using methods that could lead to an infection, causing sterility, Dr. DeCook said.

He also said that drawing out the child in a breech position "is a very dangerous procedure, and you could tear the uterus." He said a ruptured uterus could cause the mother to bleed to death in 10 minutes.

The puncturing of the child's skull also produces bone shards that could puncture the uterus.

"It sounds like science fiction," Dr. DeCook said. "It's not taught in any residency program in the country."

Joining the doctors were five women who said they elected not to abort when they discovered they were carrying deformed children.

Among them was Whitney Goin, who was with her husband, Bruce. The Orlando, Fla., couple arrived holding their 10-month-old son, Andrew, whom doctors offered to abort when they learned he would be born with several vital organs outside his body.

The child, who cooed and gurgled while Mrs. Goin spoke, has undergone many painful surgeries and eight blood transfusions, she said, as the organs, one by one, have been inserted into his body.

"The worst-case scenarios that were painted by the doctors did not come to fruition, and we are thankful that our son was allowed the opportunity to fight," she said. "My ability to have more children was not affected at all."

The other four women, who have requested a meeting with the president, displayed photos of children who died.

Several said their conditions were similar to those of the women with whom Mr. Clinton spoke.

NANCY G. ROMER, M.D.
1126 South Main Street
Dayton, Ohio 45409
Telephone 222-0297

Douglas Johnson
National Right to Life

May 28, 1996

Dear Mr. Johnson,

This is in reference to our conversation in regards to the 60 Minutes program on late term abortions. Lisa Binns of 60 Minutes called me on Friday April 26 and we spoke for approximately 45 minutes. I made several points in regard to late term abortions:

1. A handicapped fetus is not a threat to the mother's life. Ms. Binns suggested that a fetus with anencephaly has a higher risk of intrauterine death and this presents a risk to the mother. I told her that intrauterine fetal death under any circumstances is not a medical emergency and can be treated in a few days. Once the fetus dies partial birth abortion ban does not apply.

2. If a mother has a serious medical condition what is required is separation of the fetus from the mother not fetal death. This can be accomplished in several ways, either through induction of labor or cesarean section.

3. There are safe alternatives to partial birth abortion. I FAXed her a copy of Dr. Warren Hearn's article where he described his method of second trimester terminations. He injects the fetal heart with digoxin on day two to allow fetal death. On day three he documents fetal death and again now that the fetus is dead the law no longer applies. I can fax this article to you if you do not have it.

While I was out of the country May 1-10 Ms. Binns called to speak to me. I returned her call on May 14. She said she had a quick question. "Do you personally know of any physicians who would electively terminate a healthy fetus in a healthy mother past viability." I answered yes that I personally had a patient that Dr. Haskell had done an abortion on at 26 weeks. She argued that was not really viable and we debated viability. She then asked "Do you personally know of any physician who terminated a healthy fetus in a healthy mother at term?" I said Dr. McMahon had reported terminating babies with cleft lip and cleft palate. She suggested these were not healthy. I said they were not PERFECT but arguably healthy. Then I said " So what your asking is do I personally know of

any physician who has terminated a PERFECT baby in a PERFECT mother at term? The answer is no."

I hope this is of some help to you and apologize for taking so long to respond. If I can be of further help or answer any questions please don't hesitate to call.

Sincerely,

Nancy G. Romer, M.D.

PHACT

Physicians' Ad Hoc Coalition for Truth

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January 29, 1997

Fredric D. Frigoletto, Jr. M.D.
President of the Executive Board.
American College of Obstetricians and Gynecologists

Dear Dr. Frigoletto:

We write to you on behalf of the hundreds of doctors nationwide who are members of the Physicians' Ad hoc Coalition for Truth (PHACT). PHACT was formed to address expertly one issue: partial-birth abortion. While the coalition includes physicians from all medical specialties, the vast majority of its members are obstetricians and gynecologists. Of these, a sizeable number are also Fellows of the American College of Obstetricians and Gynecologists (ACOG).

With this in mind, we are writing to express our surprise and concern over a recent statement issued by ACOG, dated January 12, 1997, on the subject of partial-birth abortion. Surprise, because those of us who are fellows were never informed that ACOG was even investigating this subject, with the goal of issuing a public statement, presumably on behalf of us and the others within ACOG's membership. And concern, because the statement that was issued, by endorsing a practice for which no recognized research data exist, would seem to be violating ACOG's own standards.

Let us address the latter concern -- content -- first.

The statement correctly notes at the outset that the procedure in question is not recognized in the medical literature. The same, it should be noted, can be said of the name you have chosen to call it -- "Intact Dilatation and Extraction," or "Intact D&X" -- and all the other names proponents of this procedure have concocted for it. We have closely followed the issue of partial-birth abortion -- again, it is the *only* issue PHACT addresses -- and the term Intact Dilatation and Extraction is new to us and would appear to be unique to you. The late Dr. James McMahon, until his death a leading provider of partial-birth abortions, called them "Intact Dilation and Evacuation (Intact D&E)" while another provider, Dr. Martin Haskell of Ohio, calls them "Dilation and Extraction (D&X)." Planned Parenthood, for example, calls them D&X abortions, while the National Abortion Federation prefers Intact D&E, so there is no agreement, even among proponents of this procedure, as to what to call it. Indeed, in its January, 1996 newsletter, ACOG then referred to it as "intact dialation (sic) and evacuation." Your new coinage would seem to be a combination of these various "names" floating about, but to what end is not clear. What is clear is that none of these terms, including your own "Intact D&X" can be found in any of the standard medical textbooks or databases.

It is wrong to say, as your statement does, that descriptions, at least the description in last year's Partial-Birth Abortion Ban Act, are "vague" and "could be interpreted to include elements of many recognized" medical techniques. The description in the federal legislation is very precise as to what is being proscribed and is based on Dr. Haskell's own descriptions. Moreover, the legislation is so worded as to clearly distinguish the procedure being banned from recognized obstetric techniques, and recognized abortion techniques, such as D&E, which would be unaffected by the proposed ban.

By far, however, the most disturbing part of ACOG's statement is the assertion that "An intact D&X, however, may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of the mother."

On what possible basis does ACOG make this rather astounding assertion?

Many of our members hold teaching positions or head departments of obstetrics and gynecology or perinatology at universities and medical centers. To our knowledge there are no published peer-reviewed safety data regarding the procedure in question. It is not taught as a formally recognized medical procedure. We can think of no data that could possibly support such an assertion. If ACOG or its "select panel" has such data, we would, as teachers and practicing ob/gyns, certainly like to review it.

The best that your statement does to back this claim is the very vague assertion that "other data show that second trimester transvaginal instrumental abortion is a safe procedure." While this may be true, it is, as surely you must be aware, totally beside the point. Such data may exist regarding, e.g., second trimester D&E abortion, but this is irrelevant to the fact that no similar data, at least to our knowledge, exists with respect to partial-birth abortion (or, as you prefer, "intact D&X" or whatever other medical-sounding coinage supporters of this procedure may use). To include such an assertion that can only refer to second trimester abortion procedures *other* than partial-birth is deceptive and misleading at best.

ACOG clearly recognizes that in no circumstances is partial-birth abortion the only option for women. In other words, ACOG agrees that there are other, *medically recognized*, and standard procedures available to women other than partial-birth abortion. Given ACOG's acceptance of this medical fact, your claim that a totally unrecognized, non-standard procedure, for which no peer-reviewed data exist, can nonetheless be the safest and most appropriate in certain situations, simply defies understanding.

If ACOG is truly committed to standing by this claim, then it would appear to be violating its own standards by recommending the use of a procedure for which no peer-reviewed studies or safety data exist.

In contrast, our research of the subject leads us to conclude that there are no obstetrical situations that would necessitate or even favor the medically unrecognized partial-birth abortion procedure as the safest or most appropriate option. Indeed, we have concerns that this procedure may itself pose serious health risks for women.

Ordinarily, we would agree that the intervention of legislative bodies into medical decision making is usually inappropriate. However, when the medical decision making *itself* is inappropriate, and may be putting women at risk by subjecting them to medically unrecognized procedures, then the intervention of a legislative body, such as the U.S. Congress, may be the only way to protect mothers and infants threatened by the partial-birth abortion procedure.

In addition to these concerns over the content of the statement, we are also concerned as to the procedure by which it came to be issued.

As mentioned, the vast majority of PHACT members are specialists and sub-specialists (i.e. perinatologists) in obstetrics and gynecology, and many of these are also fellows of ACOG. After them, our membership consists largely of family practitioners and pediatricians. Former Surgeon General C. Everett Koop, perhaps the nation's leading pediatric surgeon, has been associated with PHACT and his public statements on partial-birth abortion are in agreement with PHACT. Our membership is open to any doctor, regardless of his or her political views on the larger question of abortion rights, precisely because our focus is strictly on the medical realities that relate to this procedure. (In fact, doctors who are pro-choice have publicly stated their opposition, on medical grounds, to the use of this abortion method).

We cannot recall receiving any notification whatsoever that the American College of Obstetricians and Gynecologists was even reviewing the issue of partial-birth abortion toward the end of issuing a statement of policy. We cannot recall ever being informed that ACOG was going to convene a "select panel" to accomplish this. We find it unusual that PHACT, a coalition of doctors formed for no other reason than to investigate medical claims made about partial-birth abortion, was not invited to participate in these deliberations. Those of us who are fellows of ACOG were kept completely in the dark as to what ACOG's leadership was doing in regard to this issue.

In truth, this statement is the product of a panel -- whose membership ACOG has not made public -- that was working behind closed doors and with no real participation from ACOG's membership itself. In crafting this statement, ACOG simply ignored its own members. There is the danger that in issuing this statement, ACOG is giving the larger public the impression that the statement somehow represents the thinking of its members on this subject. It does not. ACOG members had no knowledge of this statement until it was issued as a *fait accompli*.

In conclusion, this statement clearly does *not* represent a consensus among the nation's obstetricians and gynecologists as to the safety or appropriateness, under any circumstances, of the partial-birth abortion method. We ask you to provide the medical data, research and all other relevant materials which could possibly have led to such an assertion. We ask that you also make available the names of those on the select panel who arrived at such a conclusion. We would also ask that the leadership of ACOG officially withdraw this statement until the matter at issue — partial-birth abortion -- has been subject to a thorough and open discussion among the members of ACOG and those doctors in related specialties who have significant knowledge regarding this issue. We look forward to your response.

Sincerely:

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Partial-Birth Abortion: It's the *Only* Correct Term

By Douglas Johnson
NRLC Federal Legislative Director

You may have read in the paper that President Clinton vetoed a bill "outlawing late-term abortions" or "banning a medical procedure called intact dilation and evacuation." But actually, Congress never passed such a bill.

Rather, Congress passed - - and President Clinton vetoed - - a bill to ban **partial-birth abortion** (unless necessary to save a mother's life). The bill (HR 1833) defines **partial-birth abortion**, for purpose of the U.S. criminal code, as "an abortion in which the person performing the abortion partially vaginally delivers a *living* fetus before killing the fetus and completing the delivery." [emphasis added]

The bill does *not* contain any reference to the gestational age of the fetus/baby. From available evidence, it appears that the **partial-birth abortion** method is generally used after 20 weeks (4½ months) - - often much later. However, there are indications that the method at times has been used earlier - - and the bill bans the practice of partial-birth abortion at any point in pregnancy.

The phrase "outlawing late-term abortions" is doubly misleading, because methods of "late-term" abortion, other than the partial-birth method, would be unaffected by HR 1833.

In the interests of objectivity, the press should use the term that Congress has defined as a matter of law - - **partial-birth abortion**. That is the practice that the press has followed on other controversial issues. For example, most media outlets refer to the 1993 congressional ban on certain "assault weapons," even though manufacturers of such weapons and opponents of the ban use other terminology to refer to some or all of the firearms affected by that legislation.

Some opponents of HR 1833 insist that anyone writing about the bill should say that it bans a procedure "known medically as intact dilation and evacuation." But when journalists comply with this demand, they do so at the expense of accuracy. The bill itself makes no reference whatever to "intact dilation and evacuation" abortions. **More importantly, the term "intact dilation and evacuation" is *not* equivalent to the class of procedures banned by the bill.**

The term "intact dilation and evacuation" was invented by the late Dr. James McMahon. When HR 1833 was introduced in June, 1995, the term did not appear in the standard medical textbooks and databases, nor does it appear anywhere in the standard textbook on abortion methods, *Abortion Practice* by Dr. Warren Hern.

It is clearly inaccurate to equate "intact dilation and evacuation" procedures with the abortions banned by HR 1833. In his writings, Dr. McMahon used the term "intact dilation and evacuation" to cover any procedure that resulted in an intact cadaver. This included partial-birth abortion procedures - - but it also included procedures to remove the bodies of babies who had died *natural* deaths in utero, and procedures to remove the bodies of babies who had been *deliberately* killed in utero, neither of which is a partial-birth abortion as defined by the bill.

[The term "*intact* dilation and evacuation" should not be confused with "dilation and evacuation" (D&E), which is a procedure commonly used to perform second-trimester abortions, involving *dismemberment* of the baby *while still in the uterus*. The bill does not apply to this method at all.]

Because "intact dilation and evacuation" is not a standard, clearly defined medical term, the House Judiciary Constitution Subcommittee legal staff (which drafted the bill under Congressman Canady's supervision) rejected it as useless for purposes of defining a criminal offense. **Indeed, it is worse than useless - - a criminal statute that relied on such a term would be stricken by the federal courts as "void for vagueness."**

The term chosen by Congress, **partial-birth abortion**, is in no sense misleading. In sworn testimony in an Ohio lawsuit on Nov. 8, 1995, Dr. Martin Haskell - - who has done over 1,000 partial-birth abortions, and who authored the 1992 instructional paper that touched off the national controversy over the procedure - - explained that he first learned of the method when a colleague "described very briefly over the phone to me a technique that I later learned came from Dr. McMahon where they internally grab the fetus and rotate it and accomplish - - be *somewhat equivalent to a breech type of delivery.*" [emphasis added]

Dr. Haskell said that he "coined" the term **"dilation and extraction" (D&X)** to refer to this method of abortion. However, Dr. Haskell also used the same term to apply to procedures to remove babies already dead - - which are not partial-birth abortions. The term "dilation and extraction" does not appear in medical dictionaries.

Some journalists cite the National Abortion Federation (NAF) as "authority" for the assertion that "intact dilation and evacuation" is the "medical" term for the procedure that HR 1833 would ban. NAF is a lobbying organization for abortionists and abortion clinics that pay their dues.

NAF has a history of disseminating blatant misinformation with respect to partial-birth abortions. In a tape-recorded 1993 interview with *American Medical News*, Dr. Haskell specifically rebutted several of the claims that were being made by NAF officials at that time (e.g., NAF falsely claimed that the fetuses are dead *before* being "extracted;" that the procedures were done mainly in extreme medical cases, etc.). Dr. Haskell explained: "Well, I had heard that they were giving that information.... The people that staff the NAF office are not medical people.... Here they're rabid supporters of abortion. They work in the office there. And... some of them have never seen one performed..."

When questioned about Dr. Haskell's recorded remarks, Barbara Radford, at that time the executive director of NAF, "acknowledged that the information her group was quoted as providing was inaccurate," *American Medical News* reported (July 5, 1993).

In summary, it is a strange kind of "objectivity" that sets aside the term for a criminal offense that has been adopted and explicitly defined by the U.S. Congress, and substitutes a non-equivalent, pseudo-medical term promoted by the very special-interest group that would be "regulated" by the legislation.

The Wall Street Journal, 10/14/96

Letters to the Editor

Abortions of Healthy Babies

Alexander Sanger's Oct. 2 Letter to the Editor in response to our Sept. 19 editorial-page article is a perfect example of why we, as doctors, felt the need to establish the Physician's Ad Hoc Coalition for Truth (PHACT) to correct the many medical distortions surrounding the partial-birth abortion procedure.

Mr. Sanger's charge that the term "partial-birth abortion" is "made up" and appears nowhere in the medical literature is equally true of the term he prefers: "intact dilation and evacuation." Contrary to his assertion, this is not the medical term for partial-birth abortion. Rather, it was coined by the late Dr. James McMahon, until his recent death a leading provider of partial-birth abortions. In contrast, another leading partial-birth abortion provider, Dr. Martin Haskell of Ohio, has his own personal name for this technique—"D&X," for "Dilation and Extraction." What both terms have in common is that neither appear in any standard medical textbook, dictionary or database. Neither do they appear in the nation's standard textbook on abortion methods, "Abortion Practice" by Dr. Warren Hern (in fact, Dr. Hern has expressed reservations as to the safety of the procedure that would be banned by H.R. 1833).

Thus, because the term "intact dilation and evacuation" is not a standard medical term, and because Dr. McMahon's idiosyncratic usage of it was so broad as to cover procedures not affected by the language of H.R. 1833 (e.g. removal of children who have died naturally or been killed in utero), it is inappropriate both to use the term in the legislation and to equate so-called "intact D&E" abortion with "partial-births" abortions. In crafting legislation to ban this particular procedure, it was crucial to employ terminology distinguishing it from techniques that are standard in abortion practice. The term "partial birth-abortion" encompasses both legislative and descriptive concerns.

Mr. Sanger asks, "What would they recommend" if the mid-trimester uterus needs emptying? Every medical school and every training program in America would agree that amniocentesis and/or cephalocentesis followed by induction of labor with prostaglandin or pitocin is the accepted Standard of Care—the most physiologic and safest method of mid-trimester delivery. It is by far preferable to partial-birth abortion, a two-and-a-half-day, potentially dangerous procedure unsupported by any safety data in the medical literature.

In fact, we would ask Mr. Sanger to produce evidence of safety or preference for the "intact D&E" procedure over existing and proven safe procedures. ("Intact D&E" should not be confused with "dilation and evacuation" [D&E], a procedure commonly used in second-trimester abortions involving the dismemberment of the fetus in *utero* and which is, of course, unaffected by H.R. 1833).

As to Mr. Sanger's charge that we "irresponsibly advance the argument" that most partial-birth abortions are "purely elective," we do not: Dr. Haskell does. In an interview with American Medical News, Dr. Haskell volunteered the information that of the partial-birth abortions he performs, "80 percent are purely elective." In materials he submitted to Congress, Dr. McMahon included "indications" such as maternal depression, young age of mother, sickle cell trait, and a host of other conditions associated with the birth of perfectly normal infants. No partial-birth abortion is ever medically indicated, and recent investigative reports by the Washington Post and the Bergen (N.J.) Record confirm what PHACT and other supporters of H.R. 1833 have been saying all along: Most partial-birth abortions are performed on healthy mothers with healthy babies.

Finally, Mr. Sanger's assertion that anencephaly and "400 other types of catastrophic anomalies" cannot be detected prior to 20 weeks is categorically false. Many of us make our living detecting just such anomalies in ultrasound examinations performed between 16 and 20 weeks' gestation.

We again stand by our statement that there is no obstetrical situation that requires the willful destruction of a partially delivered baby to protect the life, health or future fertility of a woman.

NANCY G. ROMER, M.D.,
CURTIS R. COOK, M.D.,
PAMELA E. SMITH, M.D.,
JOSEPH L. DECOOK, M.D.
Physicians' Ad Hoc Coalition for Truth
Alexandria, Va.

* * *

Partial-birth abortion is a moral matter of the most obvious kind. The effort to sterilize it with a technical name is itself reprehensible. The demands of morality are most apparent where the order of nature is clearest and hence most clearly demands respect. It may be that morality has a bad name partly because the natural order has been too long obscured by the pretensions of technology. But deified technology is increasingly becoming recognized for the idol that it really is, and nowhere can the frustrated order and intentions of nature—from the Latin *nascor*, "to be born"—be more manifest than in a human birth brutally cut off in its very moment of accomplishment. This is more true, not less, when the name given to the act betrays studied coldness. (Is this not what we elsewhere refer to as being "cold blooded"?) One should be no more surprised at finding an "emotional charge" in the name used here than with the names of those new highly exalted crimes known as "rape" and "incest."

It should also be noted in reply to Mr. Sanger that this discussion is not, in its most important aspect, about the consequences or circumstances of partial-births abortion, although both friends and foes of abortion often speak as if it were. The essential issue here is the intrinsic character of the procedure itself. If nothing can be weighed, judged and named according to its intrinsic character, then nothing can be weighed, judged or named at all.

SEAN D. COLLINS
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The Wall Street Journal, Thursday, September 19, 1996, A22

Partial-Birth Abortion Is Bad Medicine

By Nancy Romer, Pamela Smith, Curtis R. Cook and Joseph L. DeCook

The House of Representatives will vote in the next few days on whether to override President Clinton's veto of the Partial Birth Abortion Ban Act. The debate on the subject has been noisy and rancorous. You've heard from the activists. You've heard from the politicians. Now may we speak?

We are the physicians who, on a daily basis, treat pregnant women and their babies. And we can no longer remain silent while abortion activists, the media and even the president of the United States continue to repeat false medical claims about partial-birth abortion. The appalling lack of medical credibility on the side of those defending this procedure has forced us—for the first time in our professional careers—to leave the sidelines in order to provide some sorely needed facts in a debate that has been dominated by anecdote, emotion and media stunts.

Since the debate on this issue began, those whose real agenda is to keep all types of abortion legal—at any stage of pregnancy, for any reason—have waged what can only be called an orchestrated misinformation campaign.

First the National Abortion Federation and other pro-abortion groups claimed the procedure didn't exist. When a paper written by the doctor who invented the procedure was produced, abortion proponents changed their story, claiming the procedure was only done when a women's life was in danger. Then the same doctor, the nation's main practitioner of the technique, was caught—on tape—admitting that 80% of his partial-birth abortions were "purely elective."

Then there was the anesthesia myth. The American public was told that it wasn't the abortion that killed the baby, but the anesthesia administered to the mother before the procedure. This claim was immediately and thoroughly denounced by the American Society of Anesthesiologists, which called the claim "entirely inaccurate." Yet Planned Parenthood and its allies continued to spread the myth, causing needless concern among our pregnant patients who heard the claims and were terrified that epidurals during labor, or anesthesia during needed surgeries, would kill their babies.

The latest baseless statement was made by President Clinton himself when he said that if the mothers who opted for partial-birth abortions had delivered their children naturally, the women's bodies would have been "eviscerated" or "ripped to shreds" and they "could never have another baby."

That claim is totally and completely false. Contrary to what abortion activists would have us believe, partial-birth abortion is *never* medically indicated to protect a woman's health or her fertility. In fact, the opposite is true: The procedure can pose a significant and immediate threat to both the pregnant woman's health and her fertility. It seems to have escaped anyone's attention that one of the five women who appeared at Mr. Clinton's veto ceremony had five miscarriages after her partial-birth abortion.

Consider the dangers inherent in partial-birth abortion, which usually occurs after the fifth month of pregnancy. A woman's cervix is forcibly dilated over several days, which risks creating an "incompetent cervix," the leading cause of premature deliveries. It is also an invitation to infection, a major cause of infertility. The abortionist then reaches into the womb to pull a child feet first out of the mother (internal podalic version), but leaves the head inside. Under normal circumstances, physicians avoid breech births whenever possible; in this case, the doctor intentionally causes one—and risks tearing the uterus in the process. He then forces scissors through the base of the baby's skull—which remains lodged just within the birth canal. This is a partially "blind" procedure, done by feel, risking direct scissor injury to the uterus and laceration of the cervix or lower uterine segment, resulting in immediate and massive bleeding and the threat of shock or even death to the mother.

None of this risk is ever necessary for any reason. We and many other doctors across the U.S. regularly treat women whose unborn children suffer the same conditions as those cited by the women who appeared at Mr. Clinton's veto ceremony. Never is the partial-birth procedure necessary. Not for hydrocephaly (excessive cerebrospinal fluid in the head), not for polyhydramnios (an excess of amniotic fluid collecting in the women) and not for trisomy (genetic abnormalities characterized by an extra chromosome). Sometimes, as in the case of hydrocephaly, it is first necessary to drain some of the fluid from the baby's head. And in some cases, when vaginal delivery is not possible, a doctor performs a Caesarean section. But in no case is it necessary to partially deliver an infant through the vagina and then kill the infant.

How telling it is that although Mr. Clinton met with women who claimed to have needed partial-birth abortions on account of these conditions, he has flat-out refused to meet with women who delivered babies with these same conditions, with no damage whatsoever to their health or future fertility!

Former Surgeon General C. Everett Koop was recently asked whether he'd ever operated on children who had any of the disabilities described in this debate. Indeed he had. In fact, one of his patients—"with a huge omphalocele [a sac containing the baby's organs] much bigger than her head"—went on to become the head nurse in his intensive care unit many years later.

Mr. Koop's reaction to the president's veto? "I believe that Mr. Clinton was misled by his medical advisers on what is fact and what is fiction" on the matter, he said. Such a procedure, he added, cannot truthfully be called medically necessary for either the mother or—he scarcely need point out—for the baby.

Considering these medical realities, one can only conclude that the women who thought they underwent partial-birth abortions for "medical" reasons were tragically misled. And those who purport to speak for women don't seem to care.

So whom are you going to believe? The activist-extremists who refuse to allow a little truth to get in the way of their agenda? The politicians who benefit from the activists' political action committees? Or doctors who have the facts?

Dr. Romer is clinical professor of obstetrics and gynecology at Wright State University and chairman of obstetrics and gynecology at Miami Valley Hospital in Ohio. Dr. Smith is director of medical education in the department of obstetrics and gynecology at Chicago's Mt. Sinai Medical Center. Dr. Cook is a specialist in maternal fetal medicine at Butterworth Hospital, Michigan State College of Human Medicine. Dr. DeCook is a fellow of the American College of Obstetricians and Gynecologists. The authors are founding members of the Physicians' Ad Hoc Coalition for Truth, which now has more than 500 members.

The New York Times, Thursday, September 26, 1996, A27

Why Defend Partial-Birth Abortion?

By C. Everett Koop

HANOVER, N.H.

The debate in Congress about the procedure known as partial-birth abortion reveals deep national uneasiness about abortion 23 years after the Supreme Court legalized it. As usual, each side in the debate shades the statistics and distorts the facts. But in this case, it is the abortion-rights advocates who seem inflexible and rigid.

The Senate is expected to vote today on whether to join the House in overriding President Clinton's veto of a bill last April banning partial-birth abortion. In this procedure, a doctor pulls out the baby's feet first, until the baby's head is lodged in the birth canal. Then, the doctor forces scissors through the base of the baby's skull, suctions out the brain, and crushes the skull to make extraction easier. Even some pro-choice advocates wince at this, as when Senator Daniel Patrick Moynihan termed it "close to infanticide."

The anti-abortion forces often imply that this procedure is usually performed late in the third trimester on fully developed babies. Actually, most partial-birth abortions are performed late in the second trimester, around 26 weeks. Some of these would be viable babies.

Pro-choicers twist the medical facts.

But the misinformation campaign conducted by the advocates of partial-birth abortion is much more misleading. At first, abortion-rights activists claimed this procedure hardly ever took place. When pressed for figures, several pro-abortion groups came up with 500 a year, but later investigations revealed that in New Jersey alone 1,500 partial-birth abortions are performed each year. Obviously, the national annual figure is much higher.

The primary reason given for this procedure — that it is often medically necessary to save the mother's life — is a false claim, though many people, including President Clinton, were misled into believing this. With all that modern medicine has to offer, partial-birth abortions are not needed to save the life of the mother, and the procedure's impact on a woman's cervix can put future pregnancies at risk. Recent reports have concluded that a majority of partial-birth abortions are elective, involving a healthy woman and normal fetus.

I'll admit to a personal bias: In my 30 years as a pediatric surgeon, I operated on newborns as tiny as some of these aborted babies, and we corrected congenital defects so they could live long and productive lives.

In their strident effort to protect partial-birth abortion, the pro-choice people remind me of the gun lobby. The gun lobby is so afraid of any effort to limit any guns that it opposes even a ban on assault weapons, though most gun owners think such a ban is justified.

In the same way, the pro-abortion people are so afraid of any limit on abortion that they have twisted the truth to protect partial-birth abortion, even though many pro-choice Americans find it reasonable to ban the procedure. Neither AK-47's nor partial-birth abortions have a place in civil society.

Both sides in the controversy need to straighten out their stance. The pro-life forces have done little to help prevent unwanted pregnancies, even though that is why most abortions are performed. They have also done little to provide for pregnant women in need.

On the other side, the pro-choice forces talk about medical necessity and under-represent abortion's prevalence: each year about 1.6 million babies have been aborted, very few of them for "medical necessity." The current and necessarily graphic debate about partial-birth abortion should remind all of us that what some call a choice, others call a child.

C. Everett Koop was Surgeon General from 1981 to 1989.

Some Second Thoughts on Partial-Birth Abortions

From "A New Look At Late-term Abortion," by syndicated columnist Richard Cohen, September 24, 1996: [In a June, 1995 column] I also was led to believe that these late-term abortions were extremely rare and performed only when the life of the mother was in danger or the fetus irreparably deformed. I was wrong.... my *Washington Post* colleague David Brown looked behind the purported figures and purported rationale for these abortions and found something other than medical crises of one sort or another. After interviewing doctors who performed late-term abortions and surveying the literature, Brown-- a physician himself-- wrote: "These doctors say that while a significant number of their patients have late abortions for medical reasons, many others-- perhaps the majority– do not".... In the latter stages of pregnancy, the word abortion does not quite suffice; we are talking about the killing of the fetus-- and, too often, not for any urgent medical reason....Late-term abortions once seemed to be the choice of women who, really, had no other choice. The facts now are different. If that's the case, then so should be the law.

From a column by Newsweek Senior Editor Jonathan Alter, "The Fight Over Partial-Birth Abortion Illustrates the Practical Limits of Unflinching Principle," October 7, 1996: When the partial-birth-abortion debate took shape last year, pro-choice groups insisted the procedure was extremely rare. The number 500 to 600 was tossed around, with the president and others explaining that it was reserved for heart-wrenching cases involving women whose tests show severely deformed fetuses or whose health was at risk. Not so. When deemed medically appropriate, it is used much more commonly-- perhaps several thousand times a year... The *Washington Post* surveyed physicians and found that most of those patients receiving partial-birth abortions were young, poor, single women without health problems. They simply wanted abortions, and in the second trimester it is sometimes the recommended procedure, though pro-life former surgeon general C. Everett Koop says this type of abortion is never truly medically necessary. If progressives listen raptly to Koop on tobacco, they at least owe him a hearing on obstetrics.

From "Sustaining Partial-Birth Abortion," an editorial in the Wall Street Journal for September 26, 1996: Partial-birth abortion is about pregnancies from the fifth month onward, and as such puts us into a different realm of political, medical and cultural concerns.... When the partial-birth abortion matter first arose in the House, choice advocates such as Planned Parenthood asserted that the procedure-- making an incision or punctured hole in the skull and withdrawing the contents so that the collapsed head can be pulled through the cervix-- was "extremely rare and done only when the woman's life is in danger or in cases of extreme fetal abnormality." That turns out to be untrue. No official records are kept on later-term abortions. But to their credit some newspapers have produced stories on a little-discussed area of the abortion business without the heavy reporter bias that normally attends this subject. Last week Ruth Padawer of the Record newspaper of Bergen County, N.J., reported that a clinic in Englewood said it used the method in about half the 3,000 abortions it did between weeks 20 and 24.... We entirely doubt that most Americans would support abortions past 20 weeks for no better purpose than birth control. Releasing a baby for adoption is always an honored alternative, especially given the disgusting nature of such abortion procedures.

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Partial-Birth Abortions: A Closer Look

By Douglas Johnson
NRLC Federal Legislative Director

September 11, 1996

The final version of the Partial-Birth Abortion Ban Act (HR 1833) was approved by the U.S. Senate by a vote of 54-44 on December 7, 1995, and by the U.S. House of Representatives on March 27, 1996, by a vote of 286-129. On April 10, 1996, President Clinton vetoed the bill. The House is expected to vote on whether to override the veto on or about September 19, 1996. If two-thirds of the House votes to override, the Senate also will vote on whether to override.

Opponents of the bill, including President Clinton and his subordinates, have propagated a number of myths regarding the partial-birth abortion procedure and the bill. These myths include the assertions that partial-birth abortions are very rare and are performed only in extreme circumstances involving serious fetal deformities or threat to the life of the mother; that the bill would jeopardize the lives or health of some women; and that anesthesia given to the mother kills the fetus/baby or renders her pain-free before the procedure is performed. Some of this misinformation -- especially the claim that the procedure is used mostly in cases of severe "fetal deformity" -- has been uncritically adopted as factual by some journalists, columnists, and editorialists.

Yet, these claims are contradicted by the past writings and recorded statements of doctors who have performed thousands of partial-birth abortions, and by other available documentation, including authoritative medical information gathered by the House Judiciary Committee and the Senate Judiciary Committee. This factsheet relies heavily upon such primary sources. For copies of documents cited here, contact the NRLC Federal Legislative Office at (202) 626-8820, fax (202) 347-3668.

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• What is a partial-birth abortion, and what is the Partial-Birth Abortion Ban Act (HR 1833)?

The Partial-Birth Abortion Ban Act (HR 1833) would prohibit performance of a **partial-birth abortion**, except in cases (if there are any) in which the procedure is necessary to save the life of a mother. The complete text of the bill is attached to this factsheet.

The bill defines a "partial-birth abortion" as "an abortion in which the person performing the abortion partially vaginally delivers a *living* fetus before killing the fetus and completing the delivery." [emphasis added] Abortionists who violate the law would be subject to both criminal and civil penalties, but no penalty could be applied to the woman who obtained such an abortion.

This procedure is generally used ***beginning at*** 20 weeks (4½ months) into pregnancy, and "routinely" to at least 24 weeks (5½ months). It has often been used much later-- even into the ninth month. The *Los Angeles Times* accurately and succinctly described this abortion method in a June 16, 1995 news story:

> The procedure requires a physician to extract a fetus, feet first, from the womb and through the birth canal until all but its head is exposed. Then the tips of surgical scissors are thrust into the base of the fetus' skull, and a suction catheter is inserted through the opening and the brain is removed.

In 1992, Dr. Martin Haskell of Dayton, Ohio, wrote a paper that described in detail, step-by-step, how to perform the procedure. ["Dilation and Extraction for Late Second Trimester Abortion."] Dr. Haskell is a family practitioner who has performed over 1,000 such procedures in his walk-in abortion clinics. **Anyone who is seriously seeking the truth behind the conflicting claims regarding partial-birth abortions would do well to start by reading Dr. Haskell's paper, and the transcripts of the explanatory interviews that Dr. Haskell gave in 1993 to two medical publications, *American Medical News* (the official AMA newspaper) and *Cincinnati Medicine*.** [All are available from NRLC.]

Here is how Dr. Haskell explained a key part of the abortion method:

> With a lower [fetal] extremity in the vagina, the surgeon uses his fingers to deliver the opposite lower extremity, then the torso, the shoulders and the upper extremities. The skull lodges at the internal cervical os [the opening to the uterus]. Usually there is not enough dilation for it to pass through. The fetus is oriented dorsum or spine up. At this point, the right-handed surgeon slides the fingers of the left hand along the back of the fetus and "hooks" the shoulders of the fetus with the index and ring fingers (palm down).... [T]he surgeon takes a pair of blunt curved Metzenbaum

> scissors in the right hand. He carefully advances the tip, curved down, along the spine and under his middle finger until he feels it contact the base of the skull under the tip of his middle finger.... [T]he surgeon then forces the scissors into the base of the skull or into the foramen magnum. Having safely entered the skull, he spreads the scissors to enlarge the opening. The surgeon removes the scissors and introduces a suction catheter into this hole and evacuates the skull contents." ["Dilation and Extraction for Late Second Trimester Abortion." pages 30-31.]

Dr. Haskell also wrote that he "routinely performs this procedure on all patients 20 through 24 weeks LMP [i.e., from 4½ to 5½ months after the last menstrual period] with certain exceptions," these "exceptions" involving complicating factors such as being more than 20 pounds overweight. Dr. Haskell also wrote that he used the procedure through 26 weeks [six months] "on selected patients." [p.28] He added, "Among its advantages are that it is a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia." (p. 33).

In sworn testimony in an Ohio lawsuit on Nov. 8, 1995, Dr. Haskell explained that he first learned of the method when a colleague

> described very briefly over the phone to me a technique that I later learned came from Dr. [James] McMahon where they internally grab the fetus and rotate it and accomplish-- be ***somewhat equivalent to a breech type of delivery.*** [emphasis added]

Dr. James McMahon, who died in 1995, used essentially the same procedure ***thousands*** of times, and to a much later point in pregnancy-- even into the ninth month. Other abortionists also employ the procedure, as discussed below.

• Aren't "third trimester" abortions rare? At what stage in pregnancy do partial-birth abortions occur? Are these babies "viable"?

It appears that the substantial majority of partial-birth abortions are performed late in the *second* trimester -- that is, before the 27-week mark -- but usually after 20 weeks (4½ months). There is compelling evidence that the overwhelming majority of these pre-week-27 partial-birth abortions are performed for purely "social" reasons.

In an attempt to "filter out" this documentation, many opponents of the bill attempt to narrow the debate to only *third-trimester* partial-birth abortions procedures -- that is, to abortions performed beginning in the 27th week [seventh month] of pregnancy. Some journalists and commentators have readily adopted this "filter." **However, there is really**

no non-ideological justification for adopting this "third trimester" demarcation. It has no basis in the text of the Partial-Birth Abortion Ban Act (HR 1833), which bans partial-birth abortion at *any point* in pregnancy. Nor, contrary to some popular misconceptions, is there any basis in current Supreme Court constitutional doctrine or in neo-natal medical practice for adopting a "third trimester" demarcation.

Under the Supreme Court's doctrine, "viability" is regarded as the constitutionally significant demarcation. In *Planned Parenthood v. Casey* (1992), the Supreme Court explicitly disavowed the "trimester framework" of *Roe v. Wade (1973)*, and reaffirmed that "viability" is (in the Court's view) the constitutionally significant demarcation. "Viability" is the point at which a baby born prematurely can be sustained by good medical assistance. **Currently, many babies are "viable" a full three weeks before the "third trimester." Therefore, most partial-birth abortions kill babies who are already "viable," or who are at most a few days or weeks short of viability.**[1]

(Even at 20 weeks, the baby is seven inches long on average. And, as discussed below, at a March 21 congressional hearing leading medical authorities testified that the baby by this point is very sensitive to painful stimuli.)

At least one partial-birth abortion specialist, the late Dr. James McMahon, regularly performed the procedure *even after* 26 weeks-- even into the ninth month. In 1995, Dr. McMahon submitted to the House Judiciary Constitution Subcommittee a graph and explanation that explicitly showed that he aborted ***healthy*** ("not flawed") babies ***even in the third trimester (after 26 weeks of pregnancy).*** Dr. McMahon's own graph showed, for example, that at 29 or 30 weeks, ***one-fourth*** of the aborted babies had no "flaw" however slight. **Underneath the graph, Dr. McMahon offered this explanation:**

> **After 26 weeks, those pregnancies that are not flawed are still non-elective. They are interrupted because of maternal risk, rape, incest, psychiatric or pediatric indications.** [chart and caption reproduced in June 15 hearing record, page 109]

In an interview with Constitution Subcommittee Counsel Keri Harrison, Dr. McMahon

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[1]According to the landmark survey of neonatal units in the National Institute of Child Health and Human Development Neonatal Research Network, conducted in 1987 and 1988 by Dr. Maureen Heck, et al, babies born at 23 weeks had on average a 23% chance of survival, rising to 34% at 24 weeks, and 54% at 25 weeks. See "Very Low Birth Weight Outcomes of the National Institute of Child Health and Human Development Neonatal Network," *Pediatrics*, May 1991.

explained that "pediatric indication" referred to underage mothers, not to any medical condition of the mother or the baby.

- **Is the baby alive when she is pulled feet-first from the womb?**

American Medical News reported in 1993, after conducting interviews with Drs. Haskell and McMahon, that the doctors "told *AM News* that the majority of fetuses aborted this way are alive until the end of the procedure." On July 11, 1995, *American Medical News* submitted the transcript of the tape-recorded interview with Dr. Haskell to the House Judiciary Committee. The transcript contains the following exchange:

> **American Medical News:** Let's talk first about whether or not the fetus is dead beforehand.
>
> **Dr. Haskell:** No it's not. No, it's really not. A percentage are for various numbers of reasons. Some just because of the stress-- intrauterine stress during, you know, the two days that the cervix is being dilated [to permit extraction of the fetus]. Sometimes the membranes rupture and it takes a very small superficial infection to kill a fetus in utero when the membranes are broken. **And so in my case, I would think probably about a third of those are definitely are [sic] dead before I actually start to remove the fetus. And probably the other two-thirds are not.**

In an interview quoted in the Dec. 10, 1989 *Dayton News*, Dr. Haskell conveyed that the scissors thrust is usually the lethal act: "When I do the instrumentation on the skull... it destroys the brain tissue sufficiently so that even if it (the fetus) falls out at that point, it's definitely not alive," Dr. Haskell said. [For further evidence on this issue, see the next section.]

Brenda Pratt Shafer, a registered nurse from Dayton, Ohio, stood at Dr. Haskell's side while he performed three partial-birth abortions in 1993. In testimony before the Senate Judiciary Committee (Nov. 17, 1995), Shafer described in detail the first of the three procedures--which involved, she said, a baby boy at 26½ weeks (over 6 months). According to Mrs. Shafer, the baby was alive and moving as the abortionist

> delivered the baby's body and the arms-- everything but the head. The doctor kept the baby's head just inside the uterus. The baby's little fingers were clasping and unclasping, and his feet were kicking. Then the doctor stuck the scissors through the back of his head, and the baby's arms jerked out in a flinch, a startle reaction, like a baby does when he thinks that he might fall. The doctor opened up the scissors, stuck a high-powered suction tube into the opening and sucked the baby's brains out. Now the baby was completely limp.

Under HR 1833, in any case in which a baby dies *before* being partly removed from the uterus -- whether of natural causes or by an action of an abortionist -- the subsequent removal of that baby is *not* a **partial-birth abortion** as defined by the bill.

• Does anesthesia given to the mother kill the baby?

Many prominent defenders of partial-birth abortion have publicly insisted that the unborn babies are killed by anesthesia given to the mother, ***prior to*** being "extracted" from the womb. For example, syndicated columnist Ellen Goodman wrote in November, 1995, that if you listened to supporters of the ban, "You wouldn't even know that anesthesia ends the life of such a fetus before it comes down the birth canal." NARAL President Kate Michelman said, "The fetus, is, before the procedure begins, the anesthesia that they give the woman already causes the demise of the fetus. That is, it is not true that they're born partially. That is a gross distortion, and it's really a disservice to the public to say this." [KMOX-AM, St. Louis, Nov. 2, 1995]

Likewise, Planned Parenthood distributed to Congress a "fact sheet" signed by Dr. Mary Campbell, Medical Director of Planned Parenthood of Metropolitan Washington, which stated, "The fetus dies of an overdose of anesthesia given to the mother intravenously....This induces brain death in a fetus in a matter of minutes. Fetal demise therefore occurs at the beginning of the procedure while the fetus is still in the womb."

However, when this statement was read to Dr. Norig Ellison, the president of the 34,000-member American Society of Anesthesiologists (ASA), he testified, "There is absolutely no basis in scientific fact for that statement....I think the suggestion that the anesthesia given to the mother, be it regional or general, is going to cause brain death of the fetus is without basis of fact." [Senate Judiciary Committee hearing record J-104-54, Nov. 17, 1995, p. 153]

Subsequently, in attempting to defend their "fetal demise" claims, pro-abortion advocacy groups disseminated new claims that the late Dr. James McMahon had utilized exceptionally massive doses of narcotic anesthesia before performing his abortions, and that these massive doses would indeed kill a fetus. But in testimony before the House Judiciary Constitution Subcommittee on March 21, 1996, Dr. David J. Birnbach, president-elect of the Society for Obstetric Anesthesia and Perinatology, testified:

> In order to cause fetal demise, it would be necessary to give the mother dangerous and life-threatening doses of anesthesia." [...] Although there is no evidence that this massive dose will cause fetal demise, there is clear evidence that this excessive dose could cause maternal death. [House Judiciary Committee hearing record no. 73, pages 140, 142]

• Since the baby is still alive when "extracted" from the womb, does she feel pain?

Dr. Norig Ellison, president of the American Society of Anesthesiologists (ASA), wrote to the Senate Judiciary Committee:

> Drugs administered to the mother, either local anesthesia administered in the paracervical area or sedatives/analgesics administered intramuscularly or intravenously, will provide little-to-no analgesia [pain relief] to the fetus. [Senate Judiciary Committee, Nov. 17, 1995 hearing record, page 226]

On March 21, 1996, the House Judiciary Subcommittee on the Constitution conducted a public hearing on "The Effects of Anesthesia During a Partial-Birth Abortion." Four leading experts in the field testified that the fetuses/babies who are old enough to be "candidates" for partial-birth abortion possess the neurological equipment to respond to painful stimuli, whether or not the mother has been anesthetized. Opponents of the bill were unable to produce a single medical witness willing to testify in support of the claims that anesthesia kills the fetus or renders the fetus insensible to pain. [See House Judiciary Committee Hearing Record No. 73, March 21, 1996.)

Dr. Jean A. Wright, associate professor of pediatrics and anesthesia at the Emory University School of Medicine in Atlanta, testified that recent research shows that by the stage of development that a fetus could be a "candidate" for a partial-birth abortion (20 weeks), the fetus "is more sensitive to pain than a full-term infant would be if subjected to the same procedures." Prof. Wright testified. These fetuses have "the anatomical and functional processes responsible for the perception of pain." and have "a much higher density of Opioid (pain) receptors" than older humans, she said.

Dr. David Birnbach, president-elect of the Society for Obstetric Anesthesia and Perinatology, testified. "Having administered anesthesia for fetal surgery, I know that on occasion we need to administer anesthesia directly to the fetus because even at these early ages the fetus moves away from the pain of the stimulation." [hearing record, page 288]

At a hearing before the same panel on June 15, 1995, Professor Robert White, Director of the Division of Neurosurgery and Brain Research Laboratory at Case Western Reserve School of Medicine, testified. "The fetus within this time frame of gestation, 20 weeks and beyond, is fully capable of experiencing pain." After analyzing the partial-birth procedure step-by-step for the subcommittee, Prof. White concluded: "Without question, all of this is a dreadfully painful experience for any infant subjected to such a surgical procedure." [House Judiciary Committee hearing No. 31, June 15, 1995, page 70.]

Prof. Jean Wright concluded, "This procedure, if it were done on an animal in my institution, would not make it through the institutional review process. The animal would be more protected than this child is." [hearing record, page 286]

- **Does the bill contain an exception for life-of-the-mother cases?**

HR 1833 explicitly provides that the ban "shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury," if "no other medical procedure would suffice for that purpose."

[Some pro-abortion advocacy groups have insisted that exception does not apply to disorders associated with pregnancy, since "pregnancy" per se is not a disorder or disease. House Judiciary Committee Chairman Henry J. Hyde (R-Il.) commented that this reading "is absurdly convoluted, and violates standard principles of statutory construction." In a June 7 letter, even President Clinton has acknowledged that the bill "provides an exception to the ban on this procedure only when a doctor is convinced that a woman's life is at risk."]

Under HR 1833, an abortionist could not be convicted of a violation of the law ***unless the government proved, beyond a reasonable doubt, that the abortion was <u>not</u> covered by this exception.*** (In addition, of course, the government would have to prove, beyond a reasonable doubt, all of the other elements of the offense-- that the abortionist "knowingly" partly removed a baby from the womb, that the baby was still alive, and that the abortionist then killed the baby.)

It is noteworthy that none of the five women who appeared with President Clinton at his April 10 veto ceremony required a partial-birth abortion because of danger to her life. As one of the women, Claudia Crown Ades, said in a tape-recorded April 12 radio interview on WNTM (Mobile, AL):

> "My procedure was elective. That is considered an elective procedure, as were the procedures of Coreen Costello and Tammy Watts and Mary-Dorothy Line and all the other women who were at the White House yesterday. All of our procedures were considered elective." [Complete tape recording available on request.]

[Two of the women said that *if* their babies had died natural deaths within their wombs, it could have placed them at risk. But the removal of a baby who dies a natural death, whether by foot-first extraction or in any other manner, is not an abortion and has nothing to do with the bill. Professor Watson Bowes, Jr., of the University of North Carolina, co-editor of the *Obstetrical and Gynecological Survey*, has stated that weeks would pass between the baby's natural demise and the development of any resulting risk to the mother.]

- **What reasons has President Clinton given for vetoing HR 1833?**

On December 7, 1995, before the Senate had even voted on final passage of the bill, chief opponent Sen. Barbara Boxer (D-Ca.) took the floor to make an unqualified statement that President Clinton would veto the bill. On December 8, White House Press Secretary Michael McCurry said unequivocally that the President would veto the bill because "it would represent an erosion of a woman's right to choose."

However, when President Clinton next publicly addressed the issue in a February 28 letter to key members of Congress (after a national poll found 71% support for the ban), he took different tone, although the legal bottom line was unchanged. Mr. Clinton wrote of having "studied and prayed about this issue... for many months," of finding the procedure "very disturbing," and of seeking "common ground... that respects the views of those--including myself-- who object to this particular procedure," while defending *Roe v. Wade*. But the "common ground" that Mr. Clinton proposed tracked the language offered by Sen. Boxer on December 7, and endorsed by the National Abortion and Reproductive Rights Action League (NARAL) as a "pro-choice vote." The Boxer/NARAL amendment would have allowed partial-birth abortion to be performed without any limitation whatever until "viability," and also "after viability where, in the medical judgment of the attending physician, the abortion is necessary to preserve the life of the woman or avert serious adverse health consequences to the woman." (The Senate rejected this gutting amendment.)

The Boxer/Clinton language must be read in the light of *Doe v. Bolton*, the 1973 companion case to *Roe v. Wade*, in which the Supreme Court said that "health" must encompass "all factors-- physical, emotional, psychological, familial and the woman's age-- relevant to the well-being of the patient." Given this expansive definition of "health," adding the word "serious" has no legal effect, since Mr. Clinton proposes to leave entirely up to each abortionist to decide whether "depression" or some other "health" concern is "serious."

In a June 7 letter to leaders of the Southern Baptist Convention, Mr. Clinton said that he favored banning the procedure with an exception for "cases where a woman risks death or serious damage to her health," but not for cases involving "youth" or "emotional stress." But in his formal veto message on the bill, Mr. Clinton referred to a "health" exception as required by *Roe v. Wade*. Mr. Clinton, a former teacher of constitutional law, knows full well that these two positions are inconsistent, because if *Roe/Doe* applies to partial-birth abortions, then even after "viability," the exception must indeed cover "emotional" health.

In his June 7 letter, President Clinton asserted that "the medical community... broadly supports the continued availability of this procedure where a woman's serious health interests are at stake." However, the American Medical Association (AMA) Legislative Council voted *unanimously* to recommend endorsement of the bill, with one member

explaining that the procedure was "not a recognized medical technique." (The full AMA Board of Trustees was divided on the bill and ultimately took "no position.") Of the five medical doctors who serve in Congress, four voted for the bill, including the only family practitioner/gynecologist.

• How often are partial-birth abortions performed?

There are at least 164,000 abortions a year after the first three months of pregnancy, and 13,000 abortions annually after 4½ months, according to the Alan Guttmacher Institute (*New York Times*, July 5 and November 6, 1995), which is an arm of Planned Parenthood. These numbers should be regarded as *minimums*, since they are based on *voluntary reporting* to the AGI. (The Centers for Disease Control reported that in 1993, over *17,000* abortions were performed at *21* weeks and later-- and the CDC acknowledges that the reports that it receives are incomplete.)

No one really knows how many late abortions are done by the partial-birth procedure. The Center for Reproductive Law and Policy told *The New York Times*, "The number of procedures that clearly meet the definition of partial birth abortion is very small, probably only 500 to 1,000 a year." (March 28, 1996) **Even if such figures were accurate, the legislation would be urgently needed. If a new virus swept through neo-natal units and killed 500 or 1,000 premature babies, it would be a top news story -- not dismissed as too "rare" to be of consequence. For each human being at the pointed end of the scissors, a partial-birth abortion is a 100% proposition.**

Moreover, the numbers may be considerably higher-- perhaps thousands per year. Dr. Martin Haskell and the late Dr. James McMahon spent years trying to convince other abortionists of the merits of the procedure -- that was the purpose of Dr. Haskell's 1992 instructional paper (see page 3), which was distributed by the National Abortion Federation, a lobbying group for abortion clinics. For years, Dr. McMahon was director of abortion instruction at the Cedar-Sinai Medical Center in Los Angeles. In addition, he invited other doctors to visit his abortion clinic for a period of days to learn the procedure. Also, *The New York Times* reported on Nov. 6, 1995:

> "Of course I use it, and I've taught it for the last 10 years," said a gynecologist at a New York teaching hospital who spoke on condition of anonymity. "So do doctors in other cities."

It is not known how many other abortionists have adopted the method, but a few have made themselves known. On March 19, 1996, Dr. William Rashbaum of New York City wrote a letter to Congressman Charles Canady (R-Fl.), stating that he has performed 19,000 late-

term "procedures," and that he has performed the procedure that HR 1833 would ban "routinely since 1979. This procedure is only performed in cases of later gestational age."

In 1995, Dr. Martin Haskell filed a lawsuit challenging a state abortion-regulation law. In that proceeding, two other doctors filed affidavits affirming that they perform the same procedure as Dr. Haskell -- and that's just in Ohio.

• For what reasons are late-term abortions usually performed?

There is no evidence that the reasons for which late-term abortions are performed by the partial-birth abortion method are any different, in general, than the reasons for which late-term abortions are performed by other methods -- and it is well established that the great majority of late-term abortions do not involve any illness of the mother or the baby. They are purely "elective" procedures-- that is, they are performed for purely "social" reasons.

In 1987, the Alan Guttmacher Institute (AGI), an affiliate of the Planned Parenthood Federation of America (PPFA), collected questionnaires from 1,900 women who were at abortion clinics procuring abortions. Of the 1,900, "420 had been pregnant for 16 or more weeks." These 420 women were asked to choose among a menu of reasons why they had not obtained the abortions earlier in their pregnancies. Only two percent (2%) said "a fetal problem was diagnosed late in pregnancy," compared to 71% who responded "did not recognize that she was pregnant or misjudged gestation," 48% who said "found it hard to make arrangements," and 33% who said "was afraid to tell her partner or parents." The report did not indicate that any of the 420 late abortions were performed because of maternal health problems. ["Why Do Women Have Abortions?," *Family Planning Perspectives*, July/August 1988.]

Also illuminating is an 1993 internal memo by Barbara Radford, the [illegible] executive director of the National Abortion Federation, a "trade association" for abortion clinics:

> There are many reasons why women have late abortions: life endangerment, fetal indications, *lack of money or health insurance, social-psychological crises, lack of knowledge about human reproduction, etc.*" [emphasis added]

Likewise, a June 12, 1995, National Abortion Federation letter to members of the House of Representatives noted that late abortions are sought by, among others, "very young teenagers...who have not recognized the signs of their pregnancies until too late," and by "women in poverty, who have tried desperately to act responsibly and to end an unplanned pregnancy in the early stages, only to face insurmountable financial barriers."

In her article about late-term abortions, based in part on extensive interviews with Dr. McMahon and on direct observation of his practice (*Los Angeles Times Magazine*, January 7, 1990), reporter Karen Tumulty concluded:

> If there is any other single factor that inflates the number of late abortions, it is youth. Often, teen-agers do not recognize the first signs of pregnancy. Just as frequently, they put off telling anyone as long as they can.

According to Peggy Jarman, spokeswoman for Dr. George Tiller, who specializes in late-term abortions in Wichita, Kansas:

> About three-fourths of Tiller's late-term patients, Jarman said, are teen-agers who have denied to themselves or their families they were pregnant until it was too late to hide it. [*Kansas City Star*]

• For what reasons are *partial-birth* abortions usually performed?

Some opponents of HR 1833, such as NARAL and the Planned Parenthood Federation of America (PPFA), have persistently disseminated claims that the partial-birth abortion procedure is employed only in cases involving extraordinary threats to the mother or grave fetal disorders. For example, NARAL President Kate Michelman wrote in a Scripps Howard News Service op ed published June 16, 1996, "Late-term abortions are only used under the most compelling of circumstances-- to protect a woman's health or life or because of grave fetal abnormality....nearly all abortions are performed in the first trimester." PPFA said in a press release that the partial-birth abortion procedure is "done only in cases when the woman's life is in danger or in cases of extreme fetal abnormality." (Nov. 1, 1995)

However, claims such as these are inconsistent with the writings and recorded statements of the three doctors who are most closely identified with the procedure: Dr. Martin Haskell, Dr. James McMahon, and Dr. David Grundmann.

Reasons for Partial-Birth Abortions: Dr. Martin Haskell

In his 1992 paper, Dr. Martin Haskell, who has performed over 1,000 partial-birth abortions, described the procedure as "a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia." Dr. Haskell, a family practitioner who operates three abortion clinics, wrote that he "**routinely** performs this procedure on **all** patients 20 through 24 weeks" (4½ to 5½ months) pregnant [emphasis added], except on women who are more than 20 pounds overweight, have twins, or have certain other complicating factors.

For information on why Dr. Haskell adopted the method, the 1993 interview in *Cincinnati Medicine* is very instructive. Dr. Haskell explained that he had been performing dismemberment abortions (D&Es) to 24 weeks:

> But they were very tough. Sometimes it was a 45-minute operation. I noticed that some of the later D&Es were very, very easy. So I asked myself why can't they all happen this way. You see the easy ones would have a foot length presentation, you'd reach up and grab the foot of the fetus, pull the fetus down and the head would hang up and then you would collapse the head and take it out. It was easy. . . . Then I said, "Well gee, if I just put the ultrasound up there I could see it all and I wouldn't have to feel around for it." I did that and sure enough, I found it 99 percent of the time. Kind of serendipity.

In 1993, the *American Medical News*-- the official newspaper of the AMA-- conducted a ***tape-recorded*** interview with Dr. Haskell concerning this ***specific*** abortion method, in which he said:

> **And I'll be quite frank: most of my abortions are elective in that 20-24 week range. . . . In my particular case, probably 20% [of this procedure] are for genetic reasons. And the other 80% are purely elective.**

In a lawsuit in 1995, Dr. Haskell testified that women come to him for partial-birth abortions with "a variety of conditions. Some medical, some not so medical." Among the "medical" examples he cited was "agoraphobia" (fear of open places). Moreover, in testimony presented to the Senate Judiciary Committee on November 17, 1995, ob/gyn Dr. Nancy Romer of Dayton (the city in which Dr. Haskell operates one of his abortion clinics) testified that three of her own patients had gone to Haskell's clinic for abortions "well beyond" 4½ months into pregnancy, and that "none of these women had any medical illness, and all three had normal fetuses."

Brenda Pratt Shafer, a registered nurse who observed Dr. Haskell use the procedure to abort three babies in 1993, testified that one little boy had Down Syndrome, while the other two babies were completely normal and their mothers were healthy. [Nurse Shafer's testimony before the House Judiciary subcommittee, with associated documentation, is available on request to NRLC.]

Reasons for Partial-Birth Abortions: Dr. James McMahon

The late Dr. James McMahon performed thousands of partial-birth abortions, including the third-trimester abortions performed on the five women who appeared with President Clinton

at his April 10 veto ceremony. Dr. McMahon's general approach is illustrated by this illuminating statement in the July 5, 1993 edition of *American Medical News*:

> "[A]fter 20 weeks where it frankly is a child to me, I really agonize over it because the potential is so imminently there. I think, 'Gee, it's too bad that this child couldn't be adopted.' On the other hand, I have another position, which I think is superior in the hierarchy of questions, and that is: 'Who owns the child?' It's got to be the mother.'"

In June, 1995, Dr. McMahon submitted to Congress a detailed breakdown of a "series" of over 2,000 of these abortions that he had performed. He classified only 9% (175 cases) as involving "maternal [health] indications," of which the most common was "depression."

Dr. Pamela E. Smith, director of Medical Education, Department of Obstetrics and Gynecology, Mt. Sinai Hospital, Chicago, gave the Senate Judiciary Committee her analysis of Dr. McMahon's 175 "maternal indication" cases. Of this sample, 39 cases (22%) were for maternal "depression," while another 16% were "for conditions consistent with the birth of a normal child (e.g., sickle cell trait, prolapsed uterus, small pelvis)," Dr. Smith noted. She added that in one-third of the cases, the conditions listed as "maternal indications" by Dr. McMahon really indicated that the procedure itself would be seriously risky to the mother.

Of Dr. McMahon's series, another 1,183 cases (about 56%) were for "fetal flaws," but these included a great many non-lethal disorders, such as cleft palate and Down Syndrome. In an op ed piece written for the *Los Angeles Times*, Dr. Katherine Dowling, a family physician at the University of Southern California School of Medicine, examined Dr. McMahon's report on this "fetal flaws" group. She wrote:

> Twenty-four were done for cystic hydroma (a benign lymphatic mass, usually treatable in a child of normal intelligence). Nine were done for cleft lip-palate syndrome (a friend of mine, mother of five, and a colleague who is a pulmonary specialist were born with this problem). Other reasons included cystic fibrosis (my daughter went through high school with a classmate with cystic fibrosis) and duodenal atresia (surgically correctable, but many children with this problem are moderately mentally retarded). Guess they can't enjoy life, can they? In fact, most of the partial-birth abortions in that [McMahon] survey were done for problems that were either surgically correctable or would result in some degree of neurologic or mental impairment, but would not harm the mother. Or they were done for reasons that were pretty skimpy: depression, chicken pox, diabetes, vomiting. ["What Constitutes A Quality Life?," *Los Angeles Times*, Aug. 28, 1996]

Over one-third of McMahon's 2,000 abortion "series" involved neither fetal nor maternal health problems, however trivial.

In Dr. McMahon's interviews with *American Medical News* and with Keri Harrison, counsel to the House Judiciary Subcommittee on the Constitution, Dr. McMahon freely acknowledged that he performed **late second trimester** procedures that were "elective" even by *his* definition ("elective" meaning without fetal or maternal medical justification).

After 26 weeks, Dr. McMahon claimed that all of his abortions were "non-elective" -- but his definition of "non-elective" was very expansive. His written submission stated:

> ***"After 26 weeks [six months],*** those pregnancies that are not flawed are still non-elective. They are interrupted because of maternal risk, rape, incest, ***psychiatric or pediatric indications."*** [emphasis added] ["Pediatric indications" was Dr. McMahon's terminology for young teenagers.]

Reasons for Partial-Birth Abortions: Dr. David Grundmann

Dr. David Grundmann, the medical director for Planned Parenthood of Australia, has written a paper in which he explicitly states that he uses the partial-birth abortion procedure (he calls it "dilatation and extraction") as his "method of choice" for abortions done after 20 weeks (4½ months), and that he performs such abortions for a broad variety of social reasons. [This paper, "Abortion After Twenty Weeks in Clinical Practice: Practical, Ethical and Legal Issues," and associated documentation, is available from NRLC.]

Dr. Grundmann himself described the procedure in a television interview as "essentially a breech delivery where the fetus is delivered feet first and then when the head of the fetus is brought down into the top of the cervical canal, it is decompressed with a puncturing instrument so that it fits through the cervical opening."

In the 1994 paper, Dr. Grundmann listed several "advantages" of this method, such as that it "can be performed under local and/or twi-light anesthetic" with "no need for narcotic analgesics," "can be performed as an ambulatory out-patient procedure," and there is "no chance of delivering a live fetus." Among the "disadvantages," Dr. Grundmann wrote, is "the aesthetics of the procedure are difficult for some people; and therefore it may be difficult to get staff." (Dr. Grundmann also wrote that "abortion is an integral part of family planning. Theoretically this means abortions at any stage of gestation. Therefore I favor the availability of abortion beyond 20 weeks.")

Dr. Grundmann wrote that in Australia, late-second-trimester abortion is available "in many

major hospitals, in most capital cities and large provincial centres" in cases of "lethal fetal abnormalities" or "gross fetal abnormalities," or "risk to maternal life," including "psychotic/suicidal behavior." **However, Dr. Grundmann said, his Planned Parenthood clinic *also* offers the procedure after 20 weeks for women who fall into five additional "categories": (1) "minor or doubtful fetal abnormalities," (2) "extreme maternal immaturity i.e. girls in the 11 to 14 year age group," (3) women "who do not know they are pregnant," for example because of amenorrhea [irregular menstruation] "in women who are very active such as athletes or those under extreme forms of stress i.e. exam stress, relationship breakup...," (4) "intellectually impaired women, who are unaware of basic biology...," (5) "major life crises or major changes in socio-economic circumstances. The most common example of this is a planned or wanted pregnancy followed by the sudden death or desertion of the partner who is in all probability the bread winner."**

• Is a partial-birth abortion ever the only way to preserve a mother's physical health?

President Clinton and pro-abortion advocacy groups have made strenuous efforts to persuade the public that partial-birth abortions are necessary to protect the lives or health of pregnant women, and many journalists have uncritically accepted this claim at face value. However, these claims are coming under increasingly sharp challenge from prestigious medical experts, and from women who have given birth to babies in circumstances such as those cited by President Clinton.

The sort of cases highlighted by President Clinton-- third-trimester abortions of babies with disorders incompatible with sustained life outside the womb-- account for a small fraction of all the partial-birth abortions. Confronted with identical cases, most specialists would never consider executing a breech extraction and puncturing the skull. Instead, most would deliver the baby alive, sometimes early, without jeopardy to the mother-- usually vaginally-- and make the baby as comfortable as possible for whatever time the child has allotted to her.

In an interview published in the August 19 edition of *American Medical News*, former Surgeon General C. Everett Koop said, "I believe that Mr. Clinton was misled by his medical advisors on what is fact and what is fiction in reference to late-term abortions. Because in no way can I twist my mind to see that the late-term abortions as described-- you know, partial birth, and then destruction of the unborn child before the head is born-- is a medical necessity for the mother. It certainly can't be a necessity for the baby."

Dr. Koop, a world-renown pediatric surgeon, was asked by the *American Medical News*

reporters whether he had ever "treated children with any of the disabilities cited in this debate? For example, have you operated on children born with organs outside of their bodies?" Dr. Koop replied, "Oh, yes indeed. I've done that many times. The prognosis usually is good. There are two common ways that children are born with organs outside of their body. One is an omphalocele, where the organs are out but still contained in the sac... the first child I ever did, with a huge omphalocele much bigger than her head, went on to develop well and become the head nurse in my intensive care unit many years later."

In addition, in the summer of 1996, an organization called Physicians' Ad Hoc Coalition for Truth (PHACT) began circulating material directly challenging President Clinton's claims. As of early September, PHACT reportedly consisted of over 230 physicians, mostly professors and other specialists in obstetrics, gynecology, and fetal medicine. In an advertisement published in August, the PHACT physicians said:

> Congress, the public-- but most importantly women-- need to know that partial-birth abortion is never medically indicated to protect a mother's health or her future fertility.

The PHACT doctors also referred directly to the specific medical conditions that affected some of the women who appeared with President Clinton at his April 10 veto ceremony, such as hydrocephalus (excessive fluid in the head), and commented:

> We, and many other doctors across the United States, regularly treat women whose unborn children suffer these and other serious conditions. Never is the partial-birth procedure medically indicated. Rather, such infants are regularly and safely delivered live, vaginally, with no threat to the mother's health or fertility.

At a July 24 briefing on Capitol Hill, PHACT member Dr. Curtis Cook, an ob/gyn perinatologist with the West Michigan Perinatal and Genetic Diagnostic Center (616-391-3681), said that partial-birth abortion

> is never necessary to preserve the life or the fertility of the mother, and may in fact threaten her health or well-being or future fertility. In my practice, I see these rare, unusual cases that come to most generalists' offices once in a lifetime-- they all come into our office. We see these every day....The presence of fetal disabilities or fetal anomalies are not a reason to have a termination of pregnancy to preserve the life of the mother-- they do not threaten the life of the mother in any way....[and] where these rare instances do occur, they do not require the death of the baby or the fetus prior to the completion of the delivery.

Also present at the July 24 briefing were several women who, while pregnant, had learned

that their unborn babies were afflicted with conditions similar or identical to those cited by President Clinton, but who gave birth to their babies alive. One of the women, Jeannie French of Oak Park, Illinois, distributed a July 17 letter that she and several other women sent to President Clinton, asking for a meeting so that he could learn about the medical alternatives to partial-birth abortion. Ms. French wrote:

> In recent months, I have had the opportunity to get to know many women who've carried and given birth to children with fatal conditions from anacephaly, encepaloceles, Trisomy 18, hydrocephaly, and even a rare disease called body stalk anomaly, in which internal organs develop outside a baby's body. We gave birth to our children knowing that their serious physical disabilities might not allow them to live long.... You say that partial-birth abortion has to be legal for cases *like ours*, because women's bodies would be 'ripped to shreds' by carrying their very sick children to term. By your repeated statements, you imply that partial-birth abortion is the *only or the most desirable response to children suffering severe disabilities* like our children... This message is so wrong!... Will you meet with us personally, and hear our stories?

Ms. French got a brief letter of response from two White House scheduling aides, who said that "the tremendous demands on the President will not give him the opportunity to speak with you and your group.... Your continued interest and support are deeply appreciated."

• What about President Clinton's statement that for some women, the only alternative to partial-birth abortion is to "rip your body to shreds"?

President Clinton has repeatedly justified his veto by referring to cases in which the baby suffers from advanced hydrocephaly (head enlargement). Speaking in Milwaukee on May 23, President Clinton suggested that Bob Dole or others who would deny a partial-birth abortion in such cases are saying "it's okay with me if they ripped your body to shreds and you could never have another baby."

But this is medical nonsense. Medical specialists commonly deal with cases of severe hydrocephaly by a procedure called cephalocentesis, in which a needle is used to withdraw the excess fluid (but *not* the brain), reducing the head size so that normal delivery of a live baby can occur. An eminent authority on such matters, Dr. Watson A. Bowes, Jr., professor of ob/gyn (maternal and fetal medicine) at the University of North Carolina, who is co-editor of the *Obstetrical and Gynecological Survey*, wrote to Congressman Charles Canady:

> Critics of your bill who say that this legislation will prevent doctors from performing certain procedures which are standard of care, such as cephalocentesis (removal of fluid from the enlarged head of a fetus with the most severe form of hydrocephalus) are mistaken. In such a procedure a needle is inserted with ultrasound guidance through the mother's abdomen into the uterus and then into the enlarged ventricle of the brain (the space containing cerebrospinal fluid). Fluid is then withdrawn which results in reduction of the size in the head so that delivery can occur. This procedure is not intended to kill the fetus, and, in fact, is usually associated with the birth of a live infant.

(Note: Cases of hydrocephaly accounted for less than 4% of Dr. McMahon's partial-birth abortions, according to his submission to the House Judiciary Committee.)

• What about the small minority of cases that *do* involve "serious fetal deformity"?

It is true that *some* partial-birth abortions -- a small minority -- involve babies who have grave disorders that will result in death soon after birth. But these unfortunate members of the human family deserve compassion and the best comfort-care that medical science can offer-- not a scissors in the back of the head. In some such situations there are good medical reasons to deliver such a child early, after which natural death will follow quickly.

Dr. Harlan Giles, a professor of "high-risk" obstetrics and perinatology at the Medical College of Pennsylvania, performs abortions by a variety of procedures up until "viability." However, in sworn testimony in the U.S. Federal District Court for the Southern District of Ohio (Nov. 13, 1995), Prof. Giles said:

> [After 23 weeks] I do not think there are any maternal conditions that I'm aware of that mandate ending the pregnancy that also require that the fetus be dead or that the fetal life be terminated. In my experience for 20 years, one can deliver these fetuses either vaginally, or by Cesarean section for that matter, depending on the choice of the parents with informed consent. . . But there's no reason these fetuses cannot be delivered intact vaginally after a miniature labor, if you will, and be at least assessed at birth and given the benefit of the doubt. [transcript, page 240]

In a partial-birth abortion, the abortionist dilates a woman's cervix for three days, until it is open enough to deliver the entire baby breech, except for the head. When *American Medical News* asked Dr. Martin Haskell why he could not simply dilate the woman a little more and remove the baby without killing him, Dr. Haskell responded:

> The point here is you're attempting to do an abortion... not to see how do I manipulate the situation so that I get a live birth instead. [*American Medical News* transcript]

Under closer examination, it becomes clear that in some cases, the primary reason for performing the procedure is not concern that the baby will die in utero, but rather, that he/she will be *born alive,* either with disorders incompatible with sustained life outside the womb, *or* with a *non-lethal* disability. (Again, in Dr. McMahon's table of partial-birth abortions performed for "fetal indications," the largest category was for Down Syndrome.)

Viki Wilson, whose daughter Abigail died at the hands of Dr. McMahon at *38 weeks*, said:

> I knew that I could go ahead and carry the baby until full term, but knowing, you know, that this was futile, you know, that she was going to die... I felt like I needed to be a little more in control in terms of her life and my life, instead of just sort of leaving it up to nature, because look where nature had gotten me up to this point. [NAF video transcript, page 4.]

Tammy Watts, whose baby was aborted by Dr. McMahon in the 7th month, said:

> I had a choice. I could have carried this pregnancy to term, knowing everything that was wrong. [Testimony before Senate Judiciary Committee, Nov. 17, 1995]

Claudia Crown Ades, who appeared with President Clinton at the April 10 veto, said:

> My procedure was elective. That is considered an elective procedure, as were the procedures of Coreen Costello and Tammy Watts and Mary Dorothy-Line and all the other women who were at the White House yesterday. All of our procedures were considered elective. [Quotes from taped appearance on WNTM, April 12, 1996]

In a letter opposing HR 1833, one of Dr. McMahon's colleagues at Cedar-Sinai Medical Center, Dr. Jeffrey S. Greenspoon, wrote:

> As a volunteer speaker to the National Spina Bifida Association of America and the Canadian National Spina Bifida Organization, I am familiar with the burden of raising a significantly handicapped child. . . . The burden of raising one or two abnormal children is realistically unbearable. [Letter to Rep. Hyde, July 19, 1995]

• Is there a more "objective" term for the procedure than "partial-birth abortion"?

Some opponents of the Partial-Birth Abortion Ban Act (HR 1833) insist that anyone writing about the bill should say that it bans a procedure "known medically as intact dilation and evacuation." But when journalists comply with this demand, they do so at the expense of accuracy. The bill itself makes no reference whatever to "intact dilation and evacuation" abortions. More importantly, the term "intact dilation and evacuation" is *not* equivalent to the class of procedures banned by the bill.

The bill would make it a criminal offense (except to save a woman's life) to perform a "partial-birth abortion," which the bill ***would define— as a matter of law—*** as "an abortion in which the person performing the abortion partially vaginally delivers a ***living*** fetus before killing the fetus and completing the delivery." [emphasis added]

In contrast, the term "intact dilation and evacuation" was invented by the late Dr. James McMahon, and until recently, was idiosyncratic to him. It appeared in no standard medical textbook or database, nor anywhere in the standard textbook on abortion methods, *Abortion Practice* by Dr. Warren Hern. Because "intact dilation and evacuation"[2] is not a standard, clearly defined medical term, the House Judiciary Constitution Subcommittee staff (which drafted the bill under Congressman Canady's supervision) rejected it as useless for purposes of defining a criminal offense. Indeed, it is worse than useless-- a criminal statute that relied on such a term would be stricken by the federal courts as "void for vagueness."

Although there is no clear definition of the term, we know enough to say that it is inaccurate to **equate** "intact dilation and evacuation" abortions with the procedures banned by HR 1833, since in his writings Dr. McMahon clearly used the term "intact dilation and evacuation" so broadly as to cover certain procedures which would ***not*** be affected at all by HR 1833 (e.g., removal of babies who are killed entirely in utero, and removal of babies who have died entirely natural deaths in utero). Indeed, at least one of the specific women highlighted by opponents of HR 1833 had various types of "intact D&E" abortion procedures that were *not* covered by HR 1833's definition of "partial-birth abortion."

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[2]The term "*intact* dilation and evacuation" should not be confused with "dilation and evacuation," which is a procedure commonly used in second-trimester abortions, involving *dismemberment* of the fetus/baby *while still in the uterus*. The bill does not apply to "dilation and evacuation" abortions at all.

[In his 1992 instructional paper, Dr. Haskell referred to the method as "dilation and extraction" or "D&X"-- noting that he "coined the term." When the bill was drafted, the term "dilation and extraction" did not appear in medical dictionaries or databases.]

The term chosen by Congress, **partial-birth abortion**, is in no sense misleading. In sworn testimony in an Ohio lawsuit on Nov. 8, 1995, Dr. Martin Haskell-- who has done over 1,000 partial-birth abortions, and who authored the instructional paper that touched off the controversy over the procedure-- explained that he first learned of the method when a colleague

> described very briefly over the phone to me a technique that I later learned came from Dr. McMahon where they internally grab the fetus and rotate it and accomplish-- be ***somewhat equivalent to a breech type of delivery.*** [emphasis added]

• Are the five line drawings of the procedure circulated by NRLC accurate, or misleading?

The AMA newspaper *American Medical News* (July 5, 1993) interviewed Dr. Martin Haskell and reported:

> Dr. Haskell said the drawings were accurate "from a technical point of view." But he took issue with the implication that the fetuses were "aware and resisting."

Professor Watson Bowes of the University of North Carolina at Chapel Hill, co-editor of the *Obstetrical and Gynecological Survey*, wrote in a letter to Congressman Canady:

> Having read Dr. Haskell's paper, I can assure you that these drawings accurately represent the procedure described therein.... Firsthand renditions by a professional medical illustrator, or photographs or a video recording of the procedure would no doubt be more vivid, but not necessarily more instructive for a non-medical person who is trying to understand how the procedure is performed.

On Nov. 1, 1995, Congresswoman Patricia Schroeder and her allies actually tried to prevent Congressman Canady from displaying the line drawings during the debate on HR 1833 on the floor of the House of Representatives. But the House voted by nearly a 4-to-1 margin (332 to 86) to permit the drawings to be used.

- **Does the bill contradict U.S. Supreme Court decisions?**

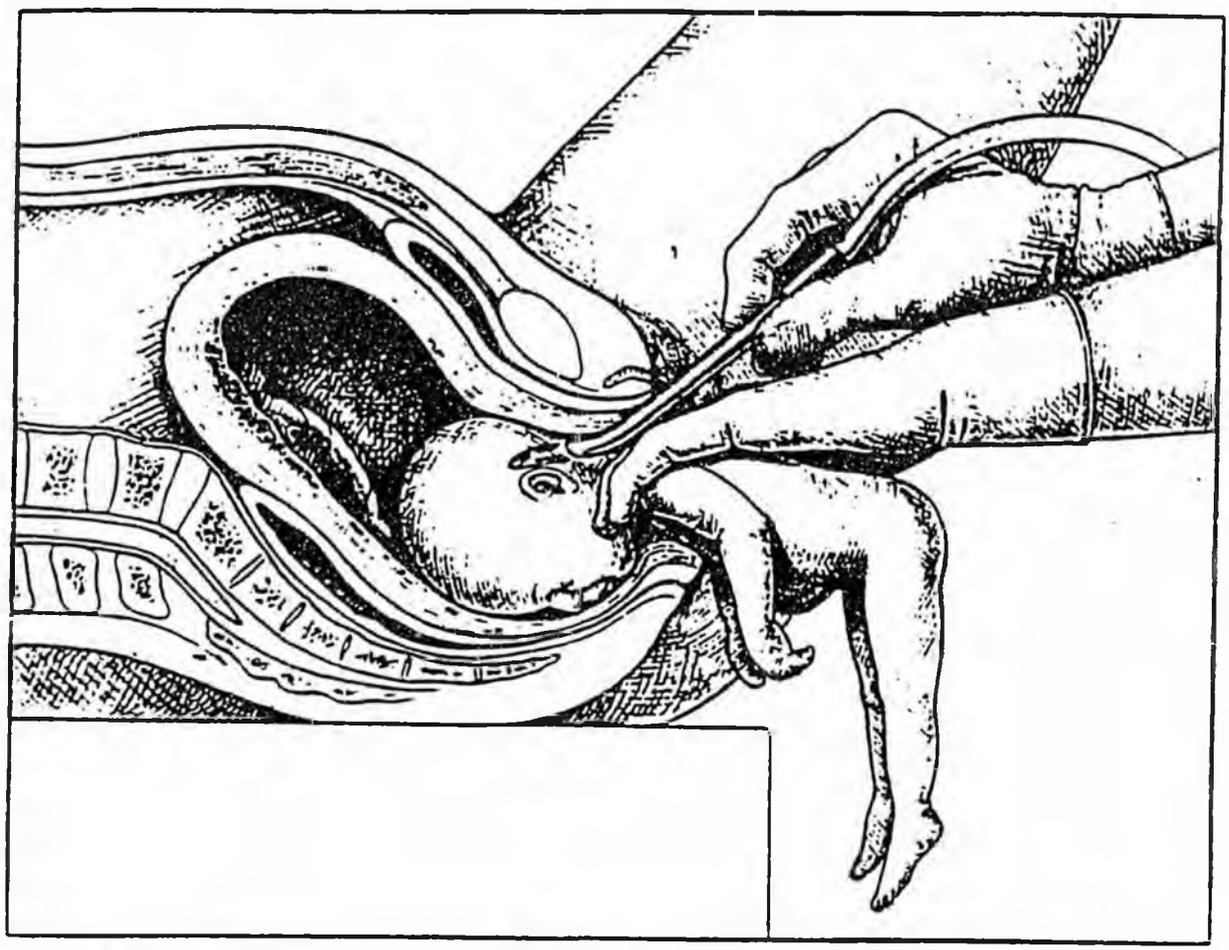
The Supreme Court has never said that there is a constitutional right to kill human beings who are mostly born.

In its official report on HR 1833, the House Judiciary Committee makes the very plausible argument that HR 1833 could be upheld by the Supreme Court without disturbing *Roe*. In *Roe*, the Supreme Court said that "the word 'person,' as used in the Fourteenth Amendment, does not include the unborn." Thus, under the Supreme Court's doctrine, a human being *becomes* a legal "person" upon emerging from the uterus. But a partial-birth abortion does not involve an "unborn fetus." A partial-birth abortion, by the very definition in the bill, kills a human being who is partly born. Indeed, a partial-birth abortion kills a human being who is four-fifths across the 'line-of-personhood' established by the Supreme Court.

Moreover, in *Roe v. Wade* itself, the Supreme Court took note of a Texas law that made it a felony to kill a baby "in a state of being born and before actual birth," and the Court did not disturb that law.

Thus, the Supreme Court could very well decide that the killing of a mostly born baby, even if done by a physician, is not protected by *Roe v. Wade*.

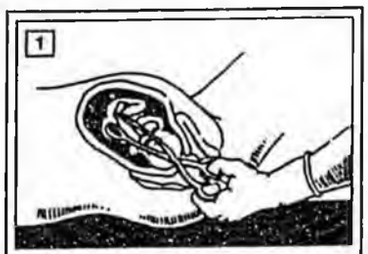
STEP 5



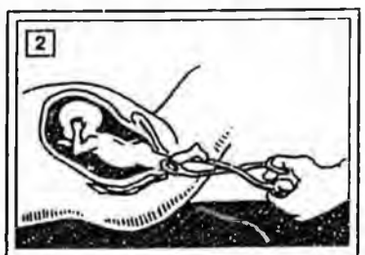
"[T]he surgeon then forces the scissors into the base of the skull... [H]e spreads the scissors to enlarge the opening. Th surgeon removes the scissors and introduces a suction catheter into this hole and evacuates the skull contents. With the catheter still in place, he applies traction to the fetus, removing it completely from the patient."

Text from Martin Haskell, M.D.
Dilation and Extraction for Late Second Trimester Abortion

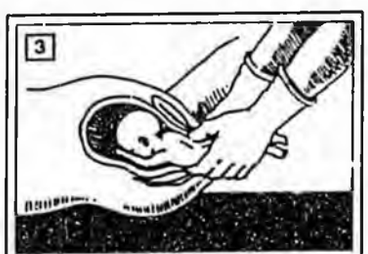
PARTIAL-BIRTH ABORTION



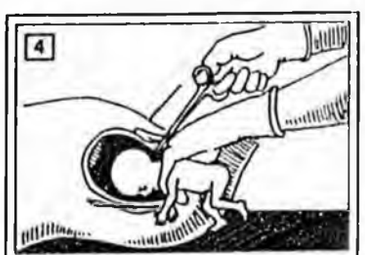
Guided by ultrasound, the abortionist grabs the baby's leg with forceps.



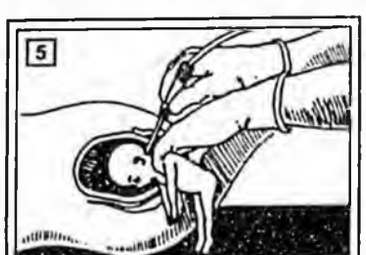
The baby's leg is pulled out into the birth canal.



The abortionist delivers the baby's entire body, except for the head.



The abortionist jams scissors into the baby's skull. The scissors are then opened to enlarge the hole.



The scissors are removed and a suction catheter is inserted. The child's brains are sucked out, causing the skull to collapse. The dead baby is then removed.

PARTIAL-BIRTH ABORTION— COLD BLOODED KILLING

For the past two years, the National Right to Life Committee has undertaken a major effort to educate Americans about the growing use of an abortion technique called "D&X." D&X is a partial-birth, brain suction abortion procedure and is nothing less than cold-blooded killing. It is used to kill babies between 18 and 39 weeks of gestation.

When this kind of abortion is performed, the abortionist removes all but the head of the living baby from the mother's womb. The back of the baby's head is next stabbed with a pair of scissors. Finally the brains are suctioned out to collapse the head making it easier to remove the now dead baby from the mother's womb.

Two years ago, NRLC distributed over six million brochures that attacked partial-birth brain suction abortion and depicted the brutal D&X method. We were immediately attacked by many pro-abortion groups, including the National Abortion Federation.

In this current legislative session of the 104th Congress, legislation that outlaws brain suction abortion methods will be introduced. It is now being drafted by Representative Charles Canady of Florida. With the strong support of grassroots pro-lifers, NRLC is prayerfully hopeful that a bill prohibiting the killing of a living baby can be passed.

Alaska State Legislature

Please enter into the record my testimony to the House State Affairs committee name committee on Partial Birth Abortions HB65 bill/subject, dated 2/18/97.

I wish to oppose any bill or amendment to a bill that would support or make more easily available "partial birth abortion". I cannot see how killing a fetus only seconds from natural birth is not unjustly taking human life. I would favor a bill to prohibit "partial birth abortions.

PAUL WIGHTMAN

Signed: Paul Wightman
Testifier

Representing (Optional)

606 Etolin St. P.O. Box 495 SITKA, AK 99835
Address

(907) 747-8371
Phone No.

Rep Jeannette James

As a retired health care professional I believe the issues of abortion should be in the hands of those professionals who deal with the issue on a regular basis rather than by those who may be politically or religiously motivated. In none of the text books that I have ever read is the phrase "partial birth abortion" listed. Abortion is a safe procedure where pre and post counseling and exams are given whether to minors or adults. Inquiry at the time of counseling addresses parental involvement when counseling minors. Please oppose SB24 and HB 37 and 65 .

Elenore Jacobsen
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Testimony Regarding

HB 65 - LATE TERM ABORTION

Before the
STATE AFFAIRS COMMITTEE
ALASKA HOUSE OF REPRESENTATIVES
February 6, 1997

Presented by
Angela M. Salerno, ACSW
Executive Director,
National Association of Social Workers Alaska Chapter

NATIONAL ASSOCIATION OF SOCIAL WORKERS
ALASKA CHAPTER

525 Main Street, Juneau AK 99801
586-4438 1-800-478-6279 Fax: 586-4439
naswak@alaska.net

The National Association of Social Workers (NASW) is the world's largest organization of professional social workers. NASW's 155,000 members nationwide and 460 in Alaska work in a wide range of settings at all levels in the public and private sectors. Professional social workers focus on vulnerable populations and promote state and federal policies which enhance the lives of the people we serve.

Thank you for the opportunity to address the Committee on HB 65 - Late Term Abortion.

NASW strongly opposes HB 65 and does not recommend its passage.

Abortion late in pregnancy is rare. 99% of all abortions are performed in the first half of pregnancy and only four one-hundredths of one percent (.04%) of abortions are performed after 26 weeks. Opponents of choice are exploiting a rare and tragic occurrence to further their goal of making all abortion illegal.

Abortion late in pregnancy is needed when a woman's life or health is endangered, and in cases of severe fetal abnormality. The bill as written would allow late-term abortion if it were necessary to save the life of a mother endangered by a physical disorder, illness, or injury and no other medical procedure would suffice for that purpose. We suggest late term abortion is needed when severe abnormality makes the fetus incompatible with life. Such cases include fetus that have developed without a spinal cord, brain, or with underdeveloped and non functional organs, or who have devastating genetic or chromosomal disorders.

A ban on late-term abortion will jeopardize women's health and future fertility. The D&X (dilation and extraction) method is the safest late-term abortion method for many women. An Ohio court compared the D&X procedure to other procedures such as C-section and induced labor and found that these methods constitute "major, traumatic surgeries," are more likely to result in uterine and cervical lacerations and pose risks inherent in undergoing labor. Moreover, late term abortion preserves the mother's body and therefore her future fertility. By prohibiting a physician form using the procedure except in some cases in which a woman's life is endangered, this bill will prevent physicians' exercise of discretion in determining the best course of treatment for their patients.

A ban on late-term abortion would be an unacceptable intrusion into the life of the family. Families and their physicians, not legislatures, must be permitted to make the difficult decisions posed by the rare and heartbreaking circumstances of wanted pregnancies gone tragically wrong.

The debate highlights an extreme situation and uses it opportunistically to further curtail a woman's right to choose. Professional social workers who believe in access to safe and legal abortion are looking for ways to end the standoff advocates find themselves in, and work toward our common goal - prevention. This legislation works to cloud the issue, and ultimately complicates the real problem of unwanted pregnancies. This legislation forces us to continue skirmishing, instead of learning to work collaboratively.

Thank you for the opportunity to testify. I'm available at any time for questions.

February 3, 1997

Representative Jeanette James
716 West 4th Avenue
Anchorage, Alaska 99501

Dear Representative James:

I wanted to take a few minutes to give you my views on House Bill 65, banning the so-called partial birth abortions. I have been doing abortions in Alaska for approximately 13 years, and am quite familiar with the abortion process and the controversy surrounding abortions.

Please read the text of the bill. Since the term "partial birth abortion" is a term which is not defined in the medical literature, a definition had to be adopted to write this bill. The text of the bill has one sentence which describes what the term "partial birth abortion" would mean. Please notice that in this case the legislature is defining "partial birth abortion", not medical literature. As such, when the legislature defines this procedure, it may have far reaching consequences in the field of medicine than was originally intended.

First, gestational age is not included in the description of the partial birth abortion. If literally interpreted, partial birth abortion can be interpreted to include the first, second and third trimester abortions. There is nothing in the bill that speaks of viability of the fetus. Again, broad interpretation of the bill could allow to apply to first, second and third trimesters.

The procedure that this bill would eliminate is actually a procedure referred to as dilation and evacuation. In Alaska, I am often called upon to do a dilation and evacuation for a number of medical indications. For instance, in a mother who is carrying an anencephalic fetus, which is a fetus with no brain, the D&E procedure is one that is most commonly used to terminate the pregnancy. In fetuses with genetic abnormalities, such as trisomy-11, 13, and a host of other genetic disorders, the D&E is the procedure that is used to terminate these pregnancies. Unfortunately, the women who are most often at risk for genetic abnormalities, are women who have chosen to become educated and establish work careers prior to establishing a family. Thus, many of the women who are in their 30's and have been in the work force for some time, find themselves in the unfortunate position of having a genetically abnormal child and dealing with this issue. These are not elective abortions, they are often family tragedies inflicted upon couples who want very much to have children. The D&E process has been used for years in Alaska as the most humane way to terminate

these pregnancies. The CDC has actually run a study looking at different methods of pregnancy termination and has been able to demonstrate that the dilation and evacuation procedure, when applied prior to certain points in gestation, is actually the safest procedure to the mother.

We do not have laws governing how gall bladder surgery might be performed, or how prostatic cancer surgery might be performed, and it seems unreasonable to pass a law to address how pregnancy terminations are performed. The CDC data clearly shows that at certain points in gestation the D&E procedure, or dilation and evacuation, is the safest procedure to the mother. Medical science should guide us on how to do specific procedures, not the legislature.

Thank you for taking time to read this letter.

Sincerely,

Jan Whitefield, M.D.
Alaska Women's Health Services

JW:FasType,jlb

Regarding House Bill No.65 Partial Birth Abortion

February 6, 1997

My name is Sharylee Zachary.

My husband, Dan, our three daughters, and I hold life very dearly.

Every conceived baby, whether two cells old or full term, has a God given right to life.

It is not right that they should receive the 'death penalty' as the result of someone who does not want to live up to the consequences of their irresponsibility.

It is not right that they should receive the 'death penalty' as the result of someone else's abusive behavior on the mother, - which created that little life.

It is particularly horrifying and horrible that someone would ever perform a partial-birth abortion on a beautiful, vital baby. Or even on a baby that is not "perfect". All life is sacred.

Mostly, partial-birth abortions are done for the 'convenience' of the aborting mother who does not want the child. It is extremely rare that a medical situation exists to preserve the life of the mother through the partial-birth abortion procedure. If the mother's life were truly in danger, than having her go through the doctors manipulations to 'turn' the baby into the abnormal and undesirable position of 'feet first' birth presentation, having the mother go through all the labor that is involved to get all of the baby out except it's head, and then the horrible procedure of jabbing a scissors into the viable infants skull, sucking its brains out, having the head collapse and then giving birth to what's left of the head, - if all that didn't kill her or cause severe physical and/or emotional problems, then delivering just 'the head' is not going to kill her or cause other problems, - but it will give the baby a chance at life.

We, and thousands of other people, are against any kinda of abortion, - but we are especially AGAINST PARTIAL BIRTH ABORTION.

And we VOTE accordingly. We DO NOT vote for anyone who is pro-choice because that is the same as 'pro-death'. And we know many, many, many people who feel the same way even though they do not express it in this manner, they do express it at the voters booth. And more and more voters are gaining this conviction all the time.

I thank you for all the hard work you go through in evaluating all the things you need to in making our Alaska state laws.

Alaska has made many wise pro-family, pro-nation choices in it's laws and I am very proud of that.

Alaska has to stand strong, not to go the route of many of the lower-48 states that are falling apart because of their unwise, anti-family choices in their living styles and laws.

Alaska needs to be the North Star state pointing the way to strong families, strong communities, strong states, and a strong nation founded and built on absolute values and taking responsibility for personal actions and the consequences thereof so that the innocent no longer suffer.

Very Sincerely and Respectfully,

Sharylee Zachary
Box 1531
Petersburg,AK 99833
(907)772-3681

February 20, 1997

Kimberly Miller
3320 Nowell Ave., Apt. 4
Juneau, AK 99801
586-1569

Representative Jeannette James
State Capitol, Rm. 102
Juneau, AK 99801

Dear Representative James:

I am writing to express my strong opposition to HB 65 concerning late-term abortions. I feel this is an attempt to exploit a rare and tragic occurrence by opponents of choice to further their goal of making all abortions illegal.

I realize that many professionals from the medical field have testified before this committee and been able to provide you with detailed information regarding the use of the dilation and extraction method. I will not repeat this information other than to say that late-term abortions are used when the life of the mother is endangered or when severe abnormalities exist with the fetus, not to abort an unwanted child. The circumstances that make late-term abortions necessary is critical to the opposition of HB 65 due to the fact that it is an essential option for Alaska's women and families who find themselves in this tragic situation.

I urge you to step beyond the emotional and moral atmosphere that this topic produces and continue to let families and their doctors make this crucial and heartbreaking decision to end wanted pregnancies based on their individual circumstances.

Thank You,
Kimberly Miller, MSW

Legislative Affairs Agency
Division of Administrative Services
Delta Junction Legislative Information Office
P.O. Box 1189
Delta Jct., AK 99737
Phone: (907) 895-4236 Fax: (907) 895-5017

To: House State Affairs

Fax: 465-2381 *Phone:* _____

Testimony on HB 65

Date Sent: 2/18/97 *No. of Pages Including Cover Sheets:* 4

Thank You,

Tammy Renee' Hall

Tammy Renee' Hall
Information Assistant

Alaska State Legislature

Please enter into the record my testimony to the HOUSE STATE committee name committee on HB65 bill/ subject, dated 2-18-97.

I urge passage of this Bill. I have a brother who is a 37 year old retarded man. Fortunately for my brother, abortion was not legal 37 years ago. His life may be different than yours - BUT he likes being alive. He holds a job and is a delight to his family.

Signed: Debra D. Jones

Testifier

RR 35 District 35

Representing (Optional)

PO Box 377 Delta Jct, AK 99737

Address

(907) 895-4565

Phone No.

Alaska State Legislature

Please enter into the record my testimony to the HOUSE STATE AFFAIRS Comm. committee name

committee on HB 65, dated 18 FEB 1997.
bill/ subject

I cite the article (read at teleconference) from Wall Street Journal 9-19-96 — & believe that this procedure is brutal & not rare —

It seems ludicrous to even be having to debate whether or not to ban this procedure!

I strongly urge passage of this bill.

Signed: BARBARA RAMJALT
Testifier

DIST 35 - RPA - FINANCE CHAIR
Representing (Optional)

PO BOX 823 - 4200 LENGRD - DELTA JCT 99737
Address

895-1946
Phone No.

DATE: 9-19-96
PAGE: A-22

Partial-Birth Abortion Is Bad Medicine

BY NANCY ROMER, PAMELA SMITH, CURTIS R. COOK AND JOSEPH L. DECOOK

The House of Representatives will vote in the next few days on whether to override President Clinton's veto of the Partial Birth Abortion Ban Act. The debate on the subject has been noisy and rancorous. You've heard from the activists. You've heard from the politicians. Now may we speak?

We are the physicians who, on a daily basis, treat pregnant women and their babies. And we can no longer remain silent while abortion activists, the media and even the president of the United States continue to repeat false medical claims about partial-birth abortion. The appalling lack of medical credibility on the side of those defending this procedure has forced us—for the first time in our professional careers—to leave the sidelines in order to provide some sorely needed facts in a debate that has been dominated by anecdote, emotion and media stunts.

Since the debate on this issue began, those whose real agenda is to keep all types of abortion legal—at any stage of pregnancy, for any reason—have waged what can only be called an orchestrated misinformation campaign.

First the National Abortion Federation and other pro-abortion groups claimed the procedure didn't exist. When a paper written by the doctor who invented the procedure was produced, abortion proponents changed their story, claiming the procedure was only done when a woman's life was in danger. Then the same doctor, the nation's main practitioner of the technique, was caught—on tape—admitting that 80% of his partial-birth abortions were "purely elective."

Then there was the anesthesia myth. The American public was told that it wasn't the abortion that killed the baby, but the anesthesia administered to the mother before the procedure. This claim was immediately and thoroughly denounced by the American Society of Anesthesiologists, which called the claim "entirely inaccurate." Yet Planned Parenthood and its allies continued to spread the myth, causing needless concern among our pregnant patients who heard the claims and were terrified that epidurals during labor, or anesthesia during needed surgeries, would kill their babies.

The latest baseless statement was made by President Clinton himself when he said that if the mothers who opted for partial-birth abortions had delivered their children naturally, the women's bodies would have been "eviscerated" or "ripped to shreds" and they "could never have another baby."

That claim is totally and completely false. Contrary to what abortion activists would have us believe, partial-birth abortion is never medically indicated to protect a woman's health or her fertility. In fact, the opposite is true: The procedure can pose a significant and immediate threat to both the pregnant woman's health and her fertility. It seems to have escaped anyone's attention that one of the five women who appeared at Mr. Clinton's veto ceremony had five miscarriages after her partial-birth abortion.

Consider the dangers inherent in partial-birth abortion, which usually occurs after the fifth month of pregnancy. A woman's cervix is forcibly dilated over several days, which risks creating an "incompetent cervix," the leading cause of premature deliveries. It is also an invitation to infection, a major cause of infertility. The abortionist then reaches into the womb to pull a child feet first out of the mother (internal podalic version), but leaves the head inside. Under normal circumstances, physicians avoid breech births whenever possible; in this case, the doctor intentionally causes one—and risks tearing the uterus in the process. He then forces scissors through the base of the baby's skull—which remains lodged just within the birth canal. This is a partially "blind" procedure, done by feel, risking direct scissor injury to the uterus and laceration of the cervix or lower uterine segment, resulting in immediate and massive bleeding and the threat of shock or even death to the mother.

None of this risk is ever necessary for any reason. We and many other doctors across the U.S. regularly treat women whose unborn children suffer the same conditions as those cited by the women who appeared at Mr. Clinton's veto ceremony. Never is the partial-birth procedure necessary. Not for hydrocephaly (excessive cerebrospinal fluid in the head), not for polyhydramnios (an excess of amniotic fluid collecting in the women) and not for trisomy (genetic abnormalities characterized by an extra chromosome). Sometimes, as in the case of hydrocephaly, it is first necessary to drain some of the fluid from the baby's head. And in some cases, when vaginal delivery is not possible, a doctor performs a Cesarean section. But in no case is it necessary to partially deliver an infant through the vagina and then kill the infant.

How telling it is that although Mr. Clinton met with women who claimed to have needed partial-birth abortions on account of these conditions, he has flat-out refused to meet with women who delivered babies with these same conditions, with no damage whatsoever to their health or future fertility!

Former Surgeon General C. Everett Koop was recently asked whether he'd ever operated on children who had any of the disabilities described in this debate. Indeed he had. In fact, one of his patients—"with a huge omphalocele [a sac containing the baby's organs] much bigger than her head"—went on to become the head nurse in his intensive care unit many years later.

Mr. Koop's reaction to the president's veto? "I believe that Mr. Clinton was misled by his medical advisers on what is fact and what is fiction" on the matter, he said. Such a procedure, he added, cannot truthfully be called medically necessary for either the mother or—he scarcely need point out—for the baby.

Considering these medical realities, one can only conclude that the women who thought they underwent partial-birth abortions for "medical" reasons were tragically misled. And those who purport to speak for women don't seem to care.

So whom are you going to believe? The activist-extremists who refuse to allow a little truth to get in the way of their agenda? The politicians who benefit from the activists' political action committees? Or doctors who have the facts?

Dr. Romer is clinical professor of obstetrics and gynecology at Wright State University and chairman of obstetrics and gynecology at Miami Valley Hospital in Ohio. Dr. Smith is director of medical education in the department of obstetrics and gynecology at Chicago's Mt. Sinai Medical Center. Dr. Cook is a specialist in maternal fetal medicine at Butterworth Hospital, Michigan State College of Human Medicine. Dr. DeCook is a fellow of the American College of Obstetricians and Gynecologists. The authors are founding members of the Physicians' Ad Hoc Coalition for Truth, which now has more than 300 members.

Dr. Nelson Isata: 272-6858

1-800-764-6202

8:30-9:00

Date: February 17, 1997

To: Barbara Cotting
Representative James' office

From: Patrick Flynn
Representative Berkowitz's office PF

Subject: Bridge line requests

Below is a list of witnesses wishing to testify during hearings on HB 65. Due to their busy schedules, it would be particularly helpful if they could dial in to bridge lines to provide their testimony and answer questions.

If you have any questions please give me a call at x4919. Thank you for your assistance in this matter.

Name	Phone number	
Dr. Jan Whitefield	907.563.7228 x241	Will have to go to Anch L.T.O.
Dr. Sherry Richey	907.272.6772	
Dr. Nelson Isata	907.272.6772	
Janet Krepps (or designee)	303.839.1912	

Call 1-800-478-7612

If Ms. Krepps doesn't call, have designee let operator know she's calling in her place. -

Thanks
Barbara

Legislative Affairs Agency
Division of Administrative Services
Delta Junction Legislative Information Office
P.O. Box 1189
Delta Jct., AK 99737
Phone: (907) 895-4236 Fax: (907) 895-5017

To: House State Affairs

Fax: 465-2381 **Phone:** _____

For your request

Date Sent: 2/18/97 **No. of Pages Including Cover Sheet:** 2

Thank You,

Tammy Hall

Tammy Renee Hall
Information Assistant

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Since the debate on this issue began, those whose real agenda is to keep all types of abortion legal—at any stage of pregnancy, for any reason—have waged what can only be called an orchestrated misinformation campaign.

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ROBIN SMITH

February 18, 1997

Dear Honorable Representatives:

Abortion is not pleasant. Dead fetuses are shocking. The lives of the women involved remain unseen.

I am sorry this issue continues to weigh so heavily on this country. Certainly most of us would prefer that it go away. I would prefer to reduce the number of abortions. Our society differs on how to accomplish this task. Some would outlaw them. Abortions would become frightening, back-alley experiments. I would rather prevent unintended pregnancies.

This bill would restrict the rights of women and threaten their health. It interferes in the doctor/patient relationship. Would men accept such limitation in their medical treatment? Men simply do not have to fear this situation. Their bodies are not imperiled. Can you imagine men being told prostate cancer procedures were unavailable because it interfered in potential human life. I understand no example is the equivalent of abortion, but pregnant women are being treated as mere *vessels*.

This proposed legislation would interfere in late-term abortion procedure. The operation is not pretty and is used vary rarely. These abortions are overwhelmingly due to fetal abnormalities that are incompatible with life. These pregnancies are wanted. The parents and physicians must make painful decisions. Frequently the mother's life is endangered and her future reproductive capabilities may be impaired. My understanding is this is the safest and most widely available method of second trimester abortion. **Surely you would not want the State of Alaska dictating medical procedure that would impact the life and health of your wife, daughter, sister, mother or friend.**

Prevent abortions by preventing unwanted pregnancies. Please vote against HB65.

Sincerely,

14100 Jarvi Drive
Anchorage, AK 99515
907-345-4407

Post-it™ brand fax transmittal memo 7671 | # of pages ▸ 1

To Rep James	From Anch LIO
Co. Alas V-H STA	Co.
Dept.	Phone # 278-8111
Fax # 465-2381	Fax #

TESTIMONY OF HB 65 "PARTIAL ABORTION"

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify on HB 65, "an act relating to partial birth abortions."

My name is Dr. Peter Nakamura, I am the director of the Division of Public Health in the Department of Health and Social Services. I was trained in Family Practice and Pediatrics. Since graduating from medical school in 1961, I provided medical care and supervised health services in the states of Oregon, Washington, Idaho, New Mexico, Arizona and Alaska. Experience in these diverse settings has given me the opportunity to learn first hand about the essential role of physician-patient partnerships in guiding the course of clinical care.

This bill, if passed, would preclude the use of a clinical procedure that may at times be the best or most appropr te procedure in a given particular circumstance. Only the doctor in consultation with the patient based upon the woman's particular circumstance can make this decision. While a provision within this bill would accommodate the use of a partial birth abortion to save the life of a pregnant woman, it would not allow its use to save the health of that same person.

This takes a critical personal health decision out the hands of the individual whose health is at stake. It would prevent women from having the ability to choose the best medical procedure to protect their health, including in some cases their ability to have children in the future. These are not decisions that should be made by government or those of us who will not be affected by the outcome. These are decisions for the

individual whose health is at stake to make in consultation with her family and physician.

An irony related to this particular bill, is that the procedure to be banned is infrequently performed and then in only a limited number of place in the United States. It is not available at all in the state of Alaska.

This bill would move decisions on the clinical procedure most appropriate for a given medical condition from the individual whose health is at stake and her physician into the hands of the legislature.

A physician could determine that a given medical intervention is the safest, most effective, and the most appropriate one for a given situation, and if this decision is not the one set in statute by the legislature, the physician, if he or she acted in the best interests of the patient, would be labeled as a criminal and face punitive action.

This bill, if passed, could be the harbinger of future legislation which would further restrict the application of the best scientific and clinical judgment. Legislation prohibiting special medical practices may outlaw techniques that are critical to the health and life of Americans.

Moving the practice of medicine from the medical arena into the legislative arena would not only imply that physicians are not capable of making these decisions but the proposal to criminalize the use of any specific clinical procedure implies that the physicians and their clients have ulterior or barbarous motives for recommending such procedures.

Passage of this bill would represent an unnecessary intrusion of government into the lives of individuals and would set a precedent of legislating medical practice.

I strongly recommend against its passage.

Statement of Brenda Pratt Shafer, R.N.

Before the

Subcommittee on the Constitution

Committee on the Judiciary

U.S. House of Representatives

Hearing on The Partial-Birth Abortion Ban Act (HR 1833)

March 21, 1996

Mr. Chairman and honorable members of the Judiciary Committee. I am Brenda Pratt Shafer. I am here before you, at the request of the Committee, to relate to you my experience as an eyewitness to what is now known as the partial-birth abortion procedure.

I am a registered nurse, licensed in the State of Ohio, with 14 years of experience. In 1993, I was employed by Kimberly Quality Care, a nursing agency in Dayton, Ohio. In September, 1993, Kimberly Quality Care asked me to accept assignment at the Women's Medical Center, which is operated by Dr. Martin Haskell. I readily accepted the assignment because I was at that time very pro-choice. I had even told my teenage daughters that if one of them ever got pregnant at a young age, I would make them get an abortion. They disagreed with me on this, and one of them even wrote an essay for a high school class that mentioned how we differed on the issue.

So, because of the strong pro-choice views that I held at that time, I thought this assignment would be no problem for me.

But I was wrong. I stood at a doctor's side as he performed the partial-birth abortion procedure-- and what I saw is branded forever on my mind.

I worked as an assistant nurse at Dr. Haskell's clinic for three days-- September 28, 29, and 30, 1993.

On the first day, we assisted in some first-trimester abortions, which is all I'd expected to be involved in. (I remember that one of the patients was a 15-year-old-girl who was having her third abortion.)

On the second day, I saw Dr. Haskell do a second-trimester procedure that is called a D & E (dilation and evacuation). He used ultrasound to examine the fetus. Then he used forceps to pull apart the baby inside the uterus, bringing it out piece by piece and piece, throwing the pieces in a pan.

Also on the first two days, we inserted laminaria to dilate the cervixes of women who were being prepared for the partial-birth abortions-- those who were past the 20 weeks point, or 4½ months. (Dr. Haskell called this procedure "D & X", for dilation and extraction.) There were six or seven of these women.

On the third day, Dr. Haskell asked me to observe as he performed several of the procedures that are the subject of this hearing. Although I was in that clinic on assignment of the agency, Dr. Haskell was interested in hiring me full time, and I was being given orientation in the entire range of procedures provided at that facility.

I was present for three of these partial-birth procedures. It is the first one that I will describe to you in detail.

The mother was six months pregnant (26½ weeks). A doctor told her that the baby had Down Syndrome and she decided to have an abortion. She came in the first two days to have the laminaria inserted and changed, and she cried the whole time. On the third day she came in to receive the partial-birth procedure.

Dr. Haskell brought the ultrasound in and hooked it up so that he could see the baby. On the ultrasound screen, I could see the heart beating. As Dr. Haskell watched the baby on the ultrasound screen, the baby's heartbeat was clearly visible on the ultrasound screen.

Dr. Haskell went in with forceps and grabbed the baby's legs and pulled them down into the birth canal. Then he delivered the baby's body and the arms-- everything but the head. The doctor kept the baby's head just inside the uterus.

The baby's little fingers were clasping and unclasping, and his feet were kicking. Then the doctor stuck the scissors through the back of his head, and the baby's arms jerked out in a flinch, a startle reaction, like a baby does when he thinks that he might fall.

The doctor opened up the scissors, stuck a high-powered suction tube into the opening and sucked the baby's brains out. Now the baby was completely limp.

I was really completely unprepared for what I was seeing. I almost threw up as I watched the doctor do these things.

Mr. Chairman, I read in the paper that President Clinton says that he is going to veto this bill. If President Clinton had been standing where I was standing at that moment, he would **not** veto this bill.

Dr. Haskell delivered the baby's head. He cut the umbilical cord and delivered the placenta. He threw that baby in a pan, along with the placenta and the instruments he'd used. I saw the baby move in the pan. I asked another nurse and she said it was just "reflexes."

I have been a nurse for a long time and I have seen a lot of death-- people maimed in auto accidents, gunshot wounds, you name it. I have seen surgical procedures of every sort. But in all my professional years, I had never witnessed anything like this.

The woman wanted to see her baby, so they cleaned up the baby and put it in a blanket and handed the baby to her. She cried the whole time, and she kept saying, "I'm so sorry, please forgive me!" I was crying too. I couldn't take it. That baby boy had the most perfect angelic face I have ever seen.

I was present in the room during two more such procedures that day, but I was really in shock. I tried to pretend that I was somewhere else, to not think about what was happening. I just couldn't wait to get out of there. After I left that day, I never went

back. These last two procedures, by the way, involved healthy mothers with healthy babies.

I was very much affected by what I had seen. For a long time, sometimes still, I had nightmares about what I saw in that clinic that day.

That's why, last July, I wrote a letter to Congressman Tony Hall of Dayton, in support of the bill, telling what I had seen. And that led to me being asked to tell others what I 'd seen, just as I am doing here today.

Mr. Chairman, since I wrote that letter to Congressman Tony Hall, I have been subjected to some strange attacks on my credibility, and I would like to address these briefly.

Last July 12, I sat in the audience as the full Judiciary Committee debated this legislation, and I heard Congresswoman Schroeder read a letter from Dr. Haskell to the Judiciary Committee (also dated July 12) in which he said, "I have examined our records and found no evidence of a Brenda Shafer working for us during 1993."

Fortunately, I had previously provided the Constitution Subcommittee with the pertinent payroll records from Kimberly Quality Care, including their invoice to Dr. Haskell's clinic. After these documents were circulated, Congresswoman Schroeder withdrew that particular allegation, explaining it away as resulting from confusion over my married name. But it seemed peculiar to me at the time that neither she nor her staff had contacted me, or the subcommittee staff, to request documentation, before she basically called me a liar in front of everybody. But there was much more of that sort of thing to come.

In his July 12 letter, Dr. Haskell said also said that my account was "inaccurate," because "she describes procedures at 26 1/2 weeks and 25 weeks... This is contrary to my own self-imposed and established limit of 24 weeks." But in recent times I've seen an article published in *American Medical News* for July 5, 1993-- just a few months before I worked for him-- in which Dr. Haskell said that he performs the procedure "up until about

25 weeks," which conflicts with his letter to the Judiciary Committee.

Also, in Dr. Haskell's 1992 paper describing the partial-birth procedure, "Dilation and Extraction for Late Second Trimester Abortion," which you have all seen, he wrote, "This author routinely performs this procedure on all patients 20 through 24 weeks LMP [i.e., from last menstrual period] with certain exceptions. The author performs the procedure on selected patients 25 through 26 weeks LMP." Keep in mind that this 26½-week little boy had Down syndrome, so this was a "selected patients" case.

Later, I learned another letter had been produced by Dr. Haskell's operation, dated July 17, this one signed by Christie Gallivan, a nurse. This letter was cited by opponents of the bill before and during the House and Senate floor debates, and was even entered into the *Congressional Record* by Senator Barbara Boxer.

In this letter, Christie Gallivan acknowledged that I had worked at the clinic for three days, but went on to claim that since I was a temporary nurse, I "would not have been present" at such a procedure-- ***or***, then again, in the alternative, that if I ***did*** see such a procedure, then my memory must be faulty, or else that I must be deliberately "misrepresenting" what I saw.

Well, as I've said from the beginning, although I was assigned by a temporary agency, Dr. Haskell needed another surgical nurse-- I was told that he was having a hard time keeping them-- and he seemed to be interested in hiring me on a permanent basis. He wanted me to observe the procedure.

Christie Gallivan was the surgical nurse and she spent those three days giving me an "orientation," as it says on the Kimberly Quality Care invoice. But what is striking to me is how blatantly inconsistent Nurse Gallivan's letter is, not only with what I saw, but with what Dr. Haskell himself has written and said elsewhere.

Christie Gallivan wrote, "Dr. Haskell does not use ultrasound in the performance of second-trimester procedures." Then she went on, regarding my account, "Therefore, her entire description of her experience with viewing the second-trimester abortion, which

includes Dr. Haskell using the ultrasound while doing his procedure, is clearly questionable."

Yet, in Dr. Haskell's paper explaining how he performs the procedure, he clearly states that the surgical assistant "places an ultrasound probe on the patient's abdomen and scans the fetus, locating the lower extremities." And a little further on, referring to the forceps, he wrote, "When the instrument appears on the sonogram screen, the surgeon is able to open and close its jaws to firmly and reliably grasp a lower extremity."

So when Christie Gallivan writes that I could not have seen a baby moving, you can evaluate that statement in the light of her other statements on these points on which there is such a clear written record. And, you should notice that she never tries to explain, in this letter, why anyone should believe that these babies supposedly don't move. I've been given a copy of a transcript of the tape-recorded interview with Dr. Haskell conducted by the *American Medical News* in June, 1993-- only three months before my time at his clinic-- in which he explicitly acknowledged that most of these babies are alive when he pulls them out.

On November 17, I testified before the Senate Judiciary Committee. Senator Kennedy asked me why it had been reported, in a nursing newsletter, that I was employed by the National Right to Life Committee. As replied, and I tell you know, I've never been a member of, or a donor to, that organization, and certainly in no sense an employee.

Certainly, since last summer I have cooperated with National Right to Life in their efforts to make my experience more widely known, because I think it's important that people know the truth about this matter. But National Right to Life has not paid me for anything, and nobody else has paid me for anything in connection with this subject either, beyond reimbursing travel and accommodation expenses. By the way, the editor of the nursing newsletter subsequently retracted the erroneous claim.

Most recently, I got a copy of a letter sent to a constituent by Congresswoman Lynn Rivers of Michigan, written in longhand, in which this distinguished member of

Congress claimed that I "was unwilling to testify under oath or submit herself to cross-examination in front of Congress-- even though she was sitting in the hearing room while testimony was being taken."

Of course, Mr. Chairman, that is all pure fiction. By the time I heard of your bill and wrote my letter to Congressman Hall, on July 9, you had already concluded the hearing on your legislation. I was present for the July 12 markup, and spoke with various members of the committee and the press informally, but of course there was no opportunity for me to formally testify on that occasion, although I certainly would have welcomed the opportunity.

In November, when Senator Hatch invited me to testify before the Senate Judiciary Committee, I accepted immediately and without qualification. During the question period, Senator Kyl asked me if I would be willing to testify to these things under oath and I replied, "Yes, sir, I would. Or under a lie detector or anything else I need to do." [Senate hearing record, p. 63] And I tell you the same thing.

Mr. Chairman, thank you for indulging me in unburdening myself on these points. It is been frustrating to hear, and hear of, these attacks on my truthfulness, and not be able to respond.

It is still amazing to me that certain individuals who hold high elective offices, offices for which I hold great respect, have been so willing to publicly spread this kind of blatant misinformation about me, without making the slightest effort to investigate or look at any of the documentation.

Mr. Chairman, these people who say I didn't see what I saw-- I wish they were right. I wish I hadn't seen it. But I did see it, and I will never be able to forget it. That baby boy was only inches, seconds away from being entirely born, when he was killed. What I saw done to that little boy, and to those other babies, should not be allowed in this country.

Thank you.

Pratt is Brenda Shafer's maiden name. Below are her social security number and RN license number listed on her Ohio driver's license and Ohio Board of Nursing card, respectively. Both numbers are listed on the bill submitted by the nursing agency to Dr. Haskell's clinic. Nurse Shafer worked as an assistant nurse at Dr. Haskell's abortion clinic for three days in September, 1993, an experience she described in a letter to Congressman Tony Hall and in the attached testimony.

OHIO BOARD OF NURSING
77 South High Street, 17th Floor
Columbus, Ohio 43266-0316
614/466-3947

LICENSE

This is to certify that

1995 **1997**

BRENDA R SHAFER

License Number: RN

SSN:

has met the requirements of the Law Regulating the Practice of Nursing, is duly licensed and is entitled to practice nursing in OHIO as a REGISTERED NURSE until AUGUST 31, 1997.

KQC Staffing

THANK YOU FOR PAYING TODAY

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INVOICE DATE 10/01/93

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Please return one copy of this invoice with your check. Late payment may result in service charges to your account.

SERVICES	$ 474.00
	$
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	$
	$
TOTAL DUE ►	$ 474.00

410.00

VOUCHERED INVOICE

ACCT.# - 219 002 01735

To ►
WOMENS MED. CENTER
ATTN: CHRIS
1401 E. STROOP ROAD
DAYTON, OH 45429

REMIT TO
KIMBERLY QUALITY CARE, INC.
P.O. BOX 60410
CHARLOTTE, N.C. 28260

PATIENT NAME WOMENS MED. CENTER

PLEASE CALL WITH QUESTIONS CONCERNING THIS INVOICE

	PERFORMED BY	SKILLS	LICENSE NO.	DATE	Bill Pt	TIME FROM	TIME TO	NO. OF HOURS	RATE	AMOUNT
1	PRATT, BRENDA	REGNUR		9 29 93	1	1030	1500	4 50	20 00	90 00
2	PRATT, BRENDA	REGNUR		9 29 93	1	930	1730	8 00	20.24 00	160.192 00
3	PRATT, BRENDA	REGNUR		9 30 93	1	930	1730	8 00	20.24 00	160.192 00

KIMBERLY QUALITY CARE — EMPLOYEE TIME CARD

EMPLOYEE NAME (Last Name, First Name) Pratt, Brenda

SOCIAL SECURITY NO WRITE CLEARLY 236-92-8486

LICENSE NO 21-7260

CLIENT NAME (Last Name, First Name) WMC

CLASSIFICATION CODE (SEE REVERSE) 06

OFFICE USE ONLY FACILITY NO 1735

DAY	DATE	CIRCLE SHIFT WORKED	AREA WORKED 1 HOSP PVT	2 GEN STAFF	3 NEW CCU	4 SUP CHG	6 ICU CHG	TIMES IN	TIMES OUT	TOTAL HOURS TO BE BILLED AND PAID	CLIENT MUST SIGN EACH DAY
SAT		4 5 6									
SUN		4 5 6									
MON		1 2 3					1				
TUES	9/28	1 2 3		✓				1030	3	4½	orientation
WED	9/29	1 2 3		✓				930	5	8	
THUR	9/30	1 2 3		✓				930	5	8	
FRI		1 2 3							3/30		

orientation

EMPLOYEE SIGNATURE Brenda Pratt RN

GRAND TOTAL HOURS TO BE BILLED AND PAID 20½

CLIENT MUST SIGN THIS LINE

BILLABLE EXPENSE | TRAVEL - NO BILL | CHECK NUMBER | INSTANT PAY NUMBER

HANDLING CHARGE | PAYROLL DED AMT | LOCATION | WEEK ENDING

I AGREE TO TOTAL HOURS AND HAVE READ AND AGREE TO TERMS AND CONDITIONS ON REVERSE SIDE

B. Pratt RN

*** CRITICAL ***

PYRG35 10/06/93
PAGE 17
CO/DIV: 219 002

KIMBERLY QUALITY CARE
P A Y R O L L R E G I S T E R
KIMBERLY QUALITY CARE, INC.

PERIOD ENDING 10/01/93
PAY DATE 10/08/93

HOURS		CURRENT PERIOD GROSS			CURRENT PERIOD DEDUCTIONS					YEAR TO DATE TOTALS				
TOTAL OVRTIM SICK	VACATN PERSNL	REGULR OVRTIM SICK	REIMBRS BONUS GRS-ADJ	GRS PAY TAX GRS	FICA-O FICA-M FIT	SIT CIT LIT	DIS	GARNISH MISC ADVANCE	OTHER	GROSS TX GR SICK	FICA-O FICA-M FIT	SIT CIT LIT	SDI GARNISH TOT HRS	CHECK# ADJST NET PAY
PRATT, BRENDA			236-92-9686											
20.50	.00	304.20	.00	304.20	18.86	3.52	.00	.00	.00	3234.00	199.28	40.46	.00	8968407
.00	.00	.00		304.20	4.41	6.84		.00		3214.00	46.58	72.25	.00	
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PRATT, BRENDA	236 92 9686	06	H

PATIENT NAME	HOURS	RATE	M.E DATE	PAYOR
MOMENS MED+ CENTER	4.50	10.00R		11
MOMENS MED+ CENTER	8.00	16.20R		11
MOMENS MED+ CENTER	8.00	16.20R		11

THE WOMEN'S MEDICAL CENTER,
Dayton, July 17, 1995.

DEAR CONGRESSWOMAN SCHROEDER: I am a registered nurse and have worked since July, 1993, in the Dayton office of Dr. Martin Haskell. In this capacity, I was the nurse that supervised the training of Brenda Pratt during her brief temporary employment at the Women's Medical Center of Dayton. As you know, we initially conducted a search of our employment records under the name "Brenda Shafer," as this was the name she signed to the letter which was given to us. When provided with the correct last name, we did in fact find the record of her three-day employment at our Dayton facility.

The information provided by Ms. Pratt as to our practices at the Women's Medical Center of Dayton is largely inaccurate. First, she describes Dr. Haskell performing one 25-week and one 26-week abortion procedure. Dr. Haskell does not perform abortions past 24 weeks of pregnancy. This is a self-imposed limit to which he has scrupulously adhered throughout the time I have worked for him.

Second, Dr. Haskell does not use ultrasound in the performance of second-trimester procedures. We use ultrasound only to determine the pregnancy's gestation. Therefore, her entire description of her experience when viewing a second-trimester abortion, which includes Dr. Haskell's using the ultrasound while doing the procedure, is clearly questionable.

Finally, at no point during a dilatation and extraction or intact D&E is there any fetal movement or response that would indicate awareness, pain or struggle. Ms. Pratt absolutely could not have witnessed fetal movement as she describes. We do not train temporary nurses in second trimester dilatation and extraction, since it is a highly technical procedure and would not be performed by someone in a temporary capacity. If, indeed, Ms. Pratt entered the operating room at any point during D&X procedure, she clearly either is misrepresenting what she saw or remembers it incorrectly.

If you have any further questions, please feel free to contact our office.

Sincerely,

CHRISTIE GALLIVAN, RN.

Alaska Women's Lobby

P.O. Box 210685 Anchorage 99521
211 Fourth Street Suite 108 Juneau 99801

phone: 907-586-1107
fax: 907-586-1097

POSITION PAPER

HB 65: Partial Birth Abortion

The Alaska Women's Lobby opposes HB 65. It is the wrong thing to do.

First, a few facts as we understand the situation from reviewing literature and talking to health care providers:

1. Late term abortion is used in the late second and third trimesters of pregnancy. It is a rare event: 99% of abortions occur in the first half of pregnancy; only four one hundredths of one percent (0.4%) are performed in the third trimester.

2. Only three doctors in the entire United States, located in California, Colorado and Kansas, are known to offer abortion services during the last three months of pregnancy as a regular part of their practice.

3. Doctors we have talked to tell us they have never met a patient who did not want and was not completely bonded to her baby by the third trimester, nor have they known a health care provider who was not equally concerned about the health of the baby and the mother by the third trimester.

4. There are many circumstances besides the saving of the life of a mother when delivery of a late term pregnancy are indicated. This procedure may be used when a woman's health (but not life) is seriously compromised, where there is a dead fetus with a healthy mother, where there is a healthy fetus in the body of a dead

mother, and when the fetus has been diagnosed with severe disorders. Factors that the doctor must consider when choosing a medical option is such cases are the length of gestation, the patient's previous obstetrical history and current presenting condition, the facilities available and the availability and amenability of various techniques.

5. While there is a broad spectrum of possibilities, specific examples of late term delivery include: the baby has no lungs or no brain and will not be able to survive after birth; early delivery would reduce the risk to the mother of C-section, pre-eclampsia and hypertension; the baby has a proven fatal congenital disorder and the mother has medical problems made worse by pregnancy (e.g. kidney disease, liver disease, breast cancer); or where the baby is normal and extremely premature but the mother is extremely ill and her condition may soon make the baby ill (e.g. malignant hypertension; and juvenile diabetes out of control) - in these situations, labor and delivery may kill the baby or save the baby, and no one can tell ahead of time which course is absolutely best for either baby or mother.

6. This procedure is the safest available for some women. Consider the case of Vikki Stella. At 32 weeks into her much-wanted pregnancy, she learned that her fetus had nine serious disorders. Vikki and her husband, the parents of two children, consulted a series of specialists. None of them could offer any hope. For Vikki, the safest procedure to protect her health and preserve her fertility was this late term procedure. "As a diabetic...this surgery was...safer for me than induced labor or a C-section, since diabetics don't heal as well as other people...I've been told mothers like me all want perfect babies...[My son] wasn't just imperfect - he was incompatible with life. The only thing that was keeping him alive was my body." Because Vikki's procedure preserved her fertility, she and her husband were able to have another child.

Last Fall, Tammy Wats and her husband were elated by the news of her pregnancy. An ultrasound in the seventh month, however, revealed that the fetus was

suffering from a devastating chromosonal disorder and would not live. Knowing that the fetus was going to die, the Watts made the most difficult decision of their lives, and Tammy had the type of procedure that would be banned by this bill. Commenting on her family's tragedy, Tammy said, " Until you've walked a mile in my shoes don't pretend to know what it's like for me. Everybody has a reason for what they have to do. Nobody should be forced into having to make the wrong decision..."

7. Limiting this procedure as proposed will place women's health at risk. Delays that result from having to travel outside the state for necessary treatment exacerbate this problem.

8. Finally, American Medical Association policy adamantly opposes attempts to interfere with the freedom of communication and choice between a physician and patients: "It is the policy of the AMA...to strongly condemn any interference by the government or other third parties that causes a physician to compromise his or her medical judgment as to what information or treatment is in the best interest of the patient... [and] to vigorously pursue legislative relief from regulations or statutes that prevent physicians from freely discussing with or providing information to patients.

Madame Chair, these facts tell us that this rare and proper medical procedure should not be the subject of yet another restrictive law that will have a chilling effect on a physician's exercise of discretion in determining the best course of treatment and that unduly burdens a women's right to choose by unnecessarily compromising her life and health.

As is always the case in this arena, professional judgment and individual considerations must govern actions taken over the broad spectrum of medical possibilities. Families and their physicians, not politicians, must be permitted to make the difficult decisions posed by the rare and heartbreaking circumstances of wanted

pregnancies gone tragically awry.

This bill is unnecessary, may result in harm to Alaskan women and only serves to further polarize concerned Alaskans. For these reasons, the Alaska Women's Lobby strongly opposes HB 65.

Alaska State Legislature

Please enter into the record my testimony to the STATE AFFAIRS committee name

committee on ~~An Act Relating to Partial-Birth~~ dated Feb .
bill/subject Abortions

I agree with house bill #65
I am against partial Birth Abortion. It is murder no matter what ~~you~~ way you want to look at it or present it. Murder is murder.

Signed: Betty L. VanVeen
Testifier

Self
Representing (Optional)

3208 H.P.R. #25 Sitka, Ak 99835
Address

747-6235
Phone No.

Alaska State Legislature

Please enter into the record my testimony to the HOUSE STATE AFFAIRS committee name

committee on HB-65 "AN ACT RELATING TO PARTIAL-BIRTH ABORTION" bill/subject, dated 02/18/97.

I SUGGEST STRONGLY TO COMPLETELY BAN THE PARTIAL-BIRTH ABORTION IN THE STATE OF ALASKA - REVISED HB-65.

THERE IS NO MEDICAL NEED FOR THE D&X PROCEDURE.

THIS IS A HORRIFYING "MEDICAL PROCEDURE" THAT IS NOT COMPATIBLE WITH THE PRESUMED SENSIBILITIES OF THE MEDICAL COMMUNITY.

THIS IS NOT AN EMOTIONAL ISSUE, NOR A LEGAL ISSUE. IT IS NOT A RELIGIOUS ISSUE, OR A "RIGHTS" ISSUE. THIS IS A COMMON SENSE HUMANITY ISSUE. DO WE DO THIS TO ANIMALS?

I WAS UNDER THE IMPRESSION THAT IN THE STATE of ALASKA WE GO TO GREAT LENGTHS TO PROTECT WILDLIFE EVEN TO THE POINT OF HIGH FINES AND/OR JAIL TIME - THIS WOULD INCLUDE ALASKA STATE AND FEDERAL LAND AND RESOURCES. SO, WE YET INSIST ON FURTHER PROMOTING THE DESTRUCTION OF OUR FUTURE ... OUR CHILDREN, GRANDCHILDREN; THE GRISELY DILATION & EXTRACTION UNDER THE GUISE OF MERCY FOR "NON-VIABLE" OR "DEFORMED" OR GENETICALLY "UNHEALTHY BABIES.

I'VE HEARD EVERY ARGUMENT POSSIBLE REGARDING THIS HB-65 AND ALL PERIPHERAL INFANTICIDE ISSUES - USUALLY "INCOMPATIBLE" WITH LIFE.

THIS LEGISLATION NEEDS TO BE REVISED TO BAN D&X IN THE STATE OF ALASKA.

Signed: _____ (TERESA LUNDY)
Testifier

_____
Representing (Optional)

P.O. BOX 2975 SITKA AK 99835
Address

966-2804 (H) 747-5561 (W)
Phone No.

Alaska State Legislature

Please enter into the record my testimony to the House State Affairs committee name

committee on HB65 ban on, dated February 18, 1997.
bill/subject "Partial Birth abortions"

Signed: [signature]
Testifier

Self
Representing (Optional)

712 Monastery Street, Sitka, AK 99835
Address

(907)747-2434
Phone No.

712 Monastery Street
Sitka, Alaska 99835
February 18, 1997

Dear Sirs:

I advocate the passing of HB 65. I believe banning partial birth abortions is in the best interest of our state.

Today, there is a lot of emphasis placed on wise use of our resources. The knowledge, skills, and insights of those who reside in our state cannot be overlooked. They represent a valuable asset. Any abortion, and this includes partial birth abortions, limits the future availability of this resource. Each baby is a small bundle of potential.

It is much more prudent, I believe, to fund better education and training for our people so that they may be equipped with the knowledge and skills necessary to be more productive members of society.

Let us not eliminate our potential. Let us develop it. Please ban partial birth abortions.

Thank you.

Sincerely,

Yvonne Corduan

Alaska State Legislature

Please enter into the record my testimony to the House State Affairs Committee on H.B. 65, an Act Relating to a Ban on Partial Birth Abortions, dated Tuesday, February 18 at 8 am.

I support H.B. 65 because there is never a true reason for such a surgical procedure as the D&X procedure used in the Partial Birth Abortions. Because a breach birth is so hard on the mother's body every effort is made to turn the baby before birth. If they fail to turn the baby, a cesarean section is performed for the *health* of the *mother* and the *life* of the *baby*. The only reason for a "Partial Birth Abortion" is to kill the baby and that is barbaric! Why is our nation *victimizing women* and *torturing* and *killing innocent human babies*? O, yes, I forgot, this is an expensive procedure and some people are getting rich.

Some people call for humane treatment of animals. I am asking for humane treatment of women and babies.

Please vote for H.B. 65. Thank You.

Signed Virginia C. Phillips
Testifier

Self
Representing(Optional)

404 Lake St., 2-D, Sitka, AK 99835
Address

907-747-6024
Phone Number

TO: House State Affairs

FROM: Marie E. Dimond

DATE: February 16, 1997

SUBJECT: HB 65

House Bill #65 on the banning of "Partial Birth Abortions", is a Bill that needs to be passed right away!

I for one, do not want any of the moneys from the Federal or State to go toward such a heinous thing as abortion, whether it be "Partial Birth", or any other type of abortion.

It is our solemn duty as, God fearing adults, to look at this House Bill and truly realize just what is involved here.

To agree to fund someone's immoral lifestyle to just to save them the embarrassment of becoming pregnant out of wedlock or out of an extra marital "affair" is just plain wrong!

There is so little chance that the "Rape victim" gets pregnant from such a traumatic circumstance the odds of this happening are extremely unlikely, an as for the unwanted child, there aren't any unwanted children, just look at the number of couples that can't have children that are trying to adopt. Adoption is the best way to take care of what a few people call "unwanted children", killing the innocent should not even be considered!

Lets face the real truth, this abortion issue is not about the unborn child, it's for the most part, about giving certain individuals the right to live a promiscuous lifestyle and have us, the Public pay for their selfish pleasures.

Our God did not intend life to be treated is such a horrible way as this.

I encourage all those in the House and in the Senate and even Govenor Tony Knowles to think about your own families.Think about your own children, and be very thankful that they, as well as yourself, were given the opportunity to live the life that you are now presently living, and Not to have been sentenced to death for something that you didn't' do!

Again, please pass this House Bill # 65, our future depends on it!

Respectfully yours,

Marie E. Dimond

Marie E. Dimond

Sitka, Ak. 99835

TO: House State Affairs

FROM: William E. Dimond

DATE: February 16, 1997

SUBJECT: HB 65

House Bill #65 on the banning of "Partial Birth Abortions", is a Bill that needs to be passed right away!

I for one, do not want any of the moneys from the Federal or State to go toward such a heinous thing as abortion, whether it be "Partial Birth", or any other type of abortion.

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Again, please pass this House Bill # 65, our future depends on it!

Respectfully yours,

William E. Dimond

William E. Dimond

Sitka, Ak. 99835

Alaska State Legislature

Testimony to the HOUSE STATE AFFAIRS COMMITTEE
Subject: HB 65
Feb. 18, 1997

Abortion, especially in the third trimester after the child is viable, is a shame on our country. I ask you to value human life and oppose partial birth abortions.

Karen L. Christner
301 Wortman
Sitka, AK
747-6930

STATE OF ALASKA
LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

DATE: 2/17/97

Please accept the enclosed original(s) of written testimony for the House State Affairs teleconference hearing that was scheduled on 2/18/97.

A copy of this testimony was transmitted to your committee via fax on 2/17/97.

Thank you,

LEGISLATIVE AFFAIRS AGENCY
Sitka Legislative Office
210 Lake Street
Sitka, Alaska 99835
747-6276

Alaska State Legislature

Please enter into the record my testimony to the House State Affairs committee name

committee on HB-65 bill/subject, dated 2/18/77.

I wish to support H.B.-65. In most of my reading and listening to expert testimony this proceedure is used more often than to save the life of the mother. I believe the vast majority of thinking people find this proceedure inexcusable and hard to justify at this late stage of developement. Please vote in favor of this bill. Thank you.

Signed: John Poluka
Testifier

Self
Representing (Optional)

311 Wortman Loop, Sitka, AK 99835
Address

907-747-8089
Phone No.

Alaska State Legislature

Please enter into the record my testimony to the House State Affairs committee name

committee on HB65 Partial Birth Abortions bill/subject, dated 2/18/97.

I wish to oppose any bill or amendment to a bill that would support or make more easily available "partial birth abortion". I cannot see how killing a fetus only seconds from natural birth is not unjustly taking human life. I would favor a bill to prohibit "partial birth abortions.

PAUL WIGHTMAN

Signed: Paul Wightman
Testifier

Representing (Optional)

606 Etolin St P.O. Box 495 SITKA, AK 99835
Address

(907) 747-8371
Phone No.

STATE OF ALASKA

LEGISLATIVE AFFAIRS AGENCY

DIVISION OF PUBLIC SERVICES

DATE: 2/18/97

Please accept the enclosed original(s) of written testimony for the House State Affairs teleconference hearing that was scheduled on 2/18/97.

A copy of this testimony was transmitted to your committee via fax on 2/18/97.

Thank you,

LEGISLATIVE AFFAIRS AGENCY
Sitka Legislative Office
210 Lake Street
Sitka, Alaska 99835
747-6276

Alaska State Legislature

Please enter into the record my testimony to the House State Affairs committee name committee on HB65 bill/subject, dated 2/18/97.

I support HB65. Thank you.
Partial abortions cross the line of human decency.

Signed: Mary Soltis
Testifier

Representing (Optional)

405 Verstovia Sitka AK
Address

747-5624
Phone No.

Alaska State Legislature

Please enter into the record my testimony to the House State Affairs committee name

committee on HB65 bill/subject, dated 2/18/97.

I want to support this bill, I do not want these little ones killed. This is wrong. I support HB65.

Signed: [signature]

Testifier

Representing (Optional)

410 Lake St. Sitka AK

Address

747-3019

Phone No.

9/86 Legislative Information Office

Alaska State Legislature

Please enter into the record my testimony to the House State Affairs committee name
Partial Birth Abortions
committee on HB65 bill/subject . dated 2/18/97 .

I Support HB65 on the grounds Partial birth abortion violates the bill of rights of the Constitution of the United States and the values on which our nation was founded & has grasped.

Signed: Brenda Bear for the Patrick Day Testifier Sr. Family

Representing (Optional)

708 Sirstad St. Sitka Ak. 99835
Address

(907) 747 3339
Phone No.

Faxed 2-20-97

ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House State Affairs committee on HB65 "An Act relating to partial-birth abortions." A listen-only teleconference was held on 2-20-97.

My name is Ruth Ewig and I reside at 2325-30th Avenue. I am in complete support of HB65 and there were at least 600 of us up here in the Tanana Valley, one year and a half ago, and probably more at this time.

Thank you for caring enough about human life to have written this bill which bans partial-birth abortions. I am hopeful that bills such as this which are traveling through the legislative process represent the cutting edge of a swing in the state and hopefully the nation toward morality, thus reversing the "decay of a nation."

Representative James, thank you for your courageous stand in preventing supporters "these deaths of pre-born babies from badgering our witnesses. Those who continue to insist that it is the woman's choice need to be required to state just what choice we are talking about. It would be too embarrassing to verbalize protecting the medical procedure of killing the baby after most of it has been delivered.

Thank you to legislators who have the discernment and foresight to get us off this "slippery slope" to destruction that we are on with our different killing procedures such as partial birth abortions. Partial birth abortion represents destruction of the helpless and the weak.

I support this bill also because of the attitudes that develop in the hearts and souls of physicians who repeatedly destroy human life. Surely, they become quite insensitive to what they are doing after repeatedly killing babies. Each step makes the next step a little easier and we are already moving into euthanasia, "medically assisted suicides" and the next phase, attacks on the elderly.

Vote YES to ban partial birth abortions. It is long overdue. Please contact me if there is more that I can do to help.

Sincerely yours,

Ruth Ewig

Ruth Ewig

2/20/97

452-5538 phone/fax

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

☐ *1031 WEST 4TH AVENUE, SUITE 200*
ANCHORAGE, ALASKA 99501-1994
PHONE: (907)269-5100
FAX: (907)276-3697

☐ *KEY BANK BUILDING*
100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907)451-2811
FAX: (907)451-2846

☒ *P.O. BOX 110300-DIMOND COURT HOUSE*
JUNEAU, ALASKA 99811-0300
PHONE: (907)465-3600
FAX: (907)465-6735

(FAX)465-2539

February 21, 1997

The Honorable Jeannette James, Chair
House State Affairs Committee
Alaska State Legislature
Juneau, AK 99801

Re: Summary of Department of Law
testimony on HB 65

Dear Representative James:

The following is a summary of the testimony on HB 65 provided by the Department of Law before the House State Affairs Committee on February 18, 1997. Two major legal issues were addressed:

1. Vagueness of the term "partial-birth abortion"

One major legal problem in this bill is based on the vagueness in the reference to and the definition of the term "partial-birth abortion." "Partial-birth abortion" is not a term readily recognized by medical practitioners and does not clearly address a specific medical procedure. Apparently there are at least two, and maybe more, medical procedures it could be referring to, including dilation and extraction (D & X) and dilation and evacuation (D & E).

Because it could potentially encompass a number of procedures or more than one method, and does not use medical terminology, it creates a vagueness about the procedures which is banned. This results in a constitutional defect in this bill because due process under the constitution requires that individuals be given adequate notice of prohibited conduct so that they can conform their conduct to the law. When laws are not clear in describing the prohibited activity, citizens, in their uncertainty, may steer far wider from the unlawful zone than is necessary. A court would scrutinize the law to determine whether it had a "chilling effect" on the free exercise of a protected constitutional right, in this case a woman's right to seek to terminate a pregnancy. If it has this effect, it will not withstand constitutional challenge.

Furthermore, this law imposes a criminal sanction on physicians, subjecting violators to imprisonment and fines for a Class C felony. Where the description of the prohibited conduct is imprecise, it could be determined unconstitutional if it subjects physicians to its enforcement under unclear or, possibly arbitrary, standards.

2. Failure to distinguish between pre-viability and post-viability procedures

This bill does not clearly distinguish pre-viability from post-viability procedures, so that under the case law that applies a privacy test based on the federal constitution, this law likely will not withstand a challenge. In Planned Parenthood v. Casey, 505 U.S. 833, 112 S.Ct. 2791 (1992), the U.S. Supreme Court established that states generally may not regulate pre-viability abortion procedures in a way that imposes an undue burden on a woman seeking a pre-viability abortion.

A federal district court in Ohio applied this precedent when addressing a 1995 Ohio law that specifically prohibited one procedure, dilation and extraction (D & X), in all abortions, including pre-viability abortions, unless all other procedures would pose a greater risk to the woman. Women's Medical Professional Corp. V. Voinovich, 911 F. Supp. 1051 (SD Ohio 1995). In its review to determine whether the court should issue a preliminary injunction, the court found that it was likely that the state's interests, no matter how legitimate or compelling, could not save the ban on this procedure from being found unconstitutional because it placed an undue burden on a woman seeking a pre-viability abortion. Id. at 1072. Furthermore, the court found that the D&X procedure may be safer for a woman than other procedures available at that stage of pregnancy, so that the plaintiffs would likely be able to show that a state ban on this procedure would potentially subject a woman to a higher medical risk. Id. at 1070.

The federal court issued a permanent injunction in January 1996 against the enforcement of the Ohio law. This case is presently on appeal before the U.S. Court of Appeals for the Sixth Circuit; oral argument has not yet been scheduled.

Consequently we believe that, if challenged, this bill would be found unconstitutional.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: Kristen F. Bomengen
Assistant Attorney General

KFB:ebc

cc: House State Affairs Committee Members
Pat Pourchot, Legislative Director
Bruce Botelho, Attorney General
Deborah Behr, Assistant Attorney General
Chrystal Smith, Legal Administrator
Hon. Karen Perdue, Commissioner, Department of Health & Social Services
Elmer Lindstrom, Special Assistant, Department of Health & Social Services

STATE of ALASKA

Delta Junction Legislative Information Office

P.O. Box 1189
Room 210, Jarvis Office Center
Delta Junction, AK 99737
(907) 895-4236 Fax: (907) 895-5017

February 18, 1997

TO: House State Affairs

Please accept the enclosed originals of written testimony for the House State Affairs hearing that was scheduled on 2/18/97.

Copies of this testimony were transmitted by fax on 2/18/97.

Thank you,

Tammy Renee' Hall
Information Assistant

Enclosures: 2

Alaska State Legislature

Please enter into the record my testimony to the HOUSE STATE AFFAIRS Comm.
committee name

committee on HB 65, dated 18 FEB 1997.
bill/ subject

I cite the article (read at teleconference) from Wall Street Journal 9-19-96 — & believe that this procedure is brutal & not rare —

It seems ludicrous to even be having to debate whether or not to ban this procedure!

I strongly urge passage of this bill.

Signed: BARBARA RANDALT
Testifier

DIST 35 - RPA - FINANCE CHAIR
Representing (Optional)

PO BOX 823 - 4200 LENGED - DELTA JCT 99737
Address

895-1941
Phone No.

Alaska State Legislature

Please enter into the record my testimony to the HOUSE STATE committee name

committee on HB65 bill/ subject, dated 2-18-97.

I urge passage of this Bill. I have a brother who is a 37 year old retarded man. Fortunately for my brother, abortion was not legal 37 years ago. His life may be different than yours - BUT he likes being alive. He holds a job and is a delight to his family.

Signed: Debra D. Joslin

Testifier

RPA District 35

Representing (Optional)

PO Box 377 Delta Jct AK 99737

Address

(907) 895-4565

Phone No.

Susan Lemagie, M.D., F.A.C.O.G
Chariman, ACOG Alaska Section District VIII
425 E. Dahlia, Suite J
Palmer, Alaska 99645
907-745-8379 fax:907-745-0153

Thank you for the opportunity to testify on HB65 "an act relating to partial birth abortions."

My name is Susan Lemagie. I am a board certified physician in the private practice of obstetrics and gynecology in Palmer, Alaska, where I have lived and worked for the last 14 years. I am a clinical instructor at the University of Washington and I serve on the State Review Committee for Maternal and Infant Mortality. I am currently Chairman of the Alaska Section of the American College of Obstetrics & Gynecology (ACOG),

Women come to me for help in prenatal care, in delivering their babies, in diagnosing and treating cancer, in surgery related to infertility, in counseling for the stresses of their lives, and in selecting appropriate contraception. I see women with illnesses ranging from sore throats and bladder infections to terminal cancer and AIDS, women in healthy loving families to women in relationships of longstanding verbal abuse and domestic violence. And I see women with unexpected pregnancies, or wanted pregnancies where something is terribly wrong, who desire to terminate their pregnancies.

Partial Birth Abortion is a political term, not a medical term. I am enclosing a statement of policy from the American College of Obstetrics & Gynecology relating to this, that was passed January 12, 1997.

The procedure incorporates standards of care for our field that have been used for centuries, when women would have otherwise died in childbirth.

Intact dilatation and extraction was developed to assist mothers whose fetuses had severe anomalies. Genetic testing, through maternal blood screening tests, ultrasound, or amniocentesis, is used to identify fetuses who are nonviable, that is, fetuses that would die before or shortly after birth. Intact dilatation and extraction allows the mother to avoid the risks of labor, allows better confirmation of the birth defects to improve testing, and enhances parental grieving with an intact fetal body.

While I have never personally seen it done, I have referred women, on occasion, to one of the few centers in the United States where this procedure is available. These were women who were hoping against hope that their babies were normal, that they would be able to give birth to healthy children. After future consultation confirmed the serious abnormalities, and nondirective counseling was performed, they chose to end the pregnancies, and grieved their losses.

Most states, Alaska included, already have limits as to the gestational age at which an elective abortion can be obtained. Alaska's limit is 21 weeks 3 days, well below potential fetal viability. Terminating a pregnancy prior to this limit is a woman's private matter, with physician consultation. She is free to follow her conscience, her morals, and her religious beliefs. Attempting to restrict abortion using any method, at this stage, violates her legal rights in America.

Pregnancy termination at later gestational ages in the vast majority of situations involves attempting to save the life of the baby while preserving the mother's health. Women may develop cancer or heart disease, have strokes, or preeclampsia a disease which is unique to pregnant women. Labor is induced early; if the fetus is viable, resuscitation and neonatal intensive care units are available. Some babies survive this early delivery, some develop permanent handicaps, some die. But no babies survive if the mothers die first.

In some rare cases late in gestation the fetuses are the ones newly identified with the life threatening conditions: they have the wrong number of chromosomes, they have severe cardiac problems, they have tumors, they have no brains or too much fluid on the brain, or they may have already died in utero. Intact dilation and extraction allows delivery of these babies that are nonviable in a manner that may be safest for the mother. She may not have to have a cesarean section for a baby that is dead or will die soon. She will not experience an obstructed labor, or an amniotic fluid embolism with resulting heart and lung problems and bleed to death because her blood has lost the ability to clot.

With any empathy you can get a hint of the agonizing position this mother may be in. Imagine then her horror at being told that she may not receive the best medical care available because the government—or more specifically you, as a legislator—have decided that you understand medicine better than her physician, that you understand her religious beliefs better than she does, that you understand what is best for her and her family. This attitude is profoundly disrespectful to her bodily and spiritual integrity, and to her physician's medical knowledge and professionalism. This is government intrusion into the most private concerns that a woman has.

As the American College of Obstetrics and Gynecology has stated "the intervention of legislative bodies into medical decision making is inappropriate, ill advised, and dangerous." It is very likely that this type of legislation would not survive a court challenge. Please do not waste our taxpayer monies on your personal religious agenda.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 65

Revision Date:
Title: Relating to partial-birth abortions
Sponsor: Kott
Requestor: House State Affairs

Dept. Affected: Health and Social Services
BRU: Medical Assistance
Component: Medicaid Non-Facility
COMPONENT SERIAL NO. 229
See also (SN#):

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGES IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: $0.0

ANALYSIS: (Attach a separate page if necessary)

The Division assumes that a partial-birth abortion refers to a third trimester abortion of a viable fetus, and therefore does not believe this bill would have any affect on the cost of abortions for the Medicaid and General Relief Medical Assistance Programs. There would be no way to identify a partial-birth abortion procedure on a medical claim form, but the division believes that facilities in Alaska, and those out-of-state facilities commonly used by Alaskans, do not perform third trimester abortions.

Prepared by: Nancy Weller
Division: Medical Assistance
Phone: 465-3355
Date: 01/16/97

Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services
Date: 2/5/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 65

Revision Date:
Title: "An act relating to partial-birth abortions."

Sponsor: Representative Kott
Requestor: (H) STA

Department Affected: Administration
BRU: Public Defender Agency
Component: Public Defender Agency

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	**	**	**	**	**	**
CAPITAL EXPENDITURES	**	**	**	**	**	**
CHANGE IN REVENUES ( )	**	**	**	**	**	**

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	**	**	**	**	**	**

Estimate of any current year (FY 97) cost: $ **

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill would make performing a "partial-birth abortion" in Alaska a class C felony offense. It creates a new crime, and may result in additional cases and additional work for the Public Defender Agency. Although (presumably) only physicians would be prosecuted and it would be highly unusual for a physician to be a public defender client, other persons could be prosecuted as aiders or abettors. There is even the potential that people who form an agreement to have such an procedure outside the state could be prosecuted under the conspiracy laws. However, without an accurate prediction of the numbers of prosecutions expected, fiscal impact is impossible to quantify.

Prepared by: Barbara K. Brink, Director
Division: Public Defender Agency

Phone: (907) 264-4414
Date:

Approved by Commissioner: Mark Boyer
Agency: Department of Administration

Date: 2/17/97

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Rev: 11/96