

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 86/2

9432 HOUSE STATE AFFAIRS

## PARTIAL-BIRTH ABORTIONS: A CLOSER LOOK, 23

[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.

## PARTIAL-BIRTH ABORTIONS: A CLOSER LOOK, 24

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

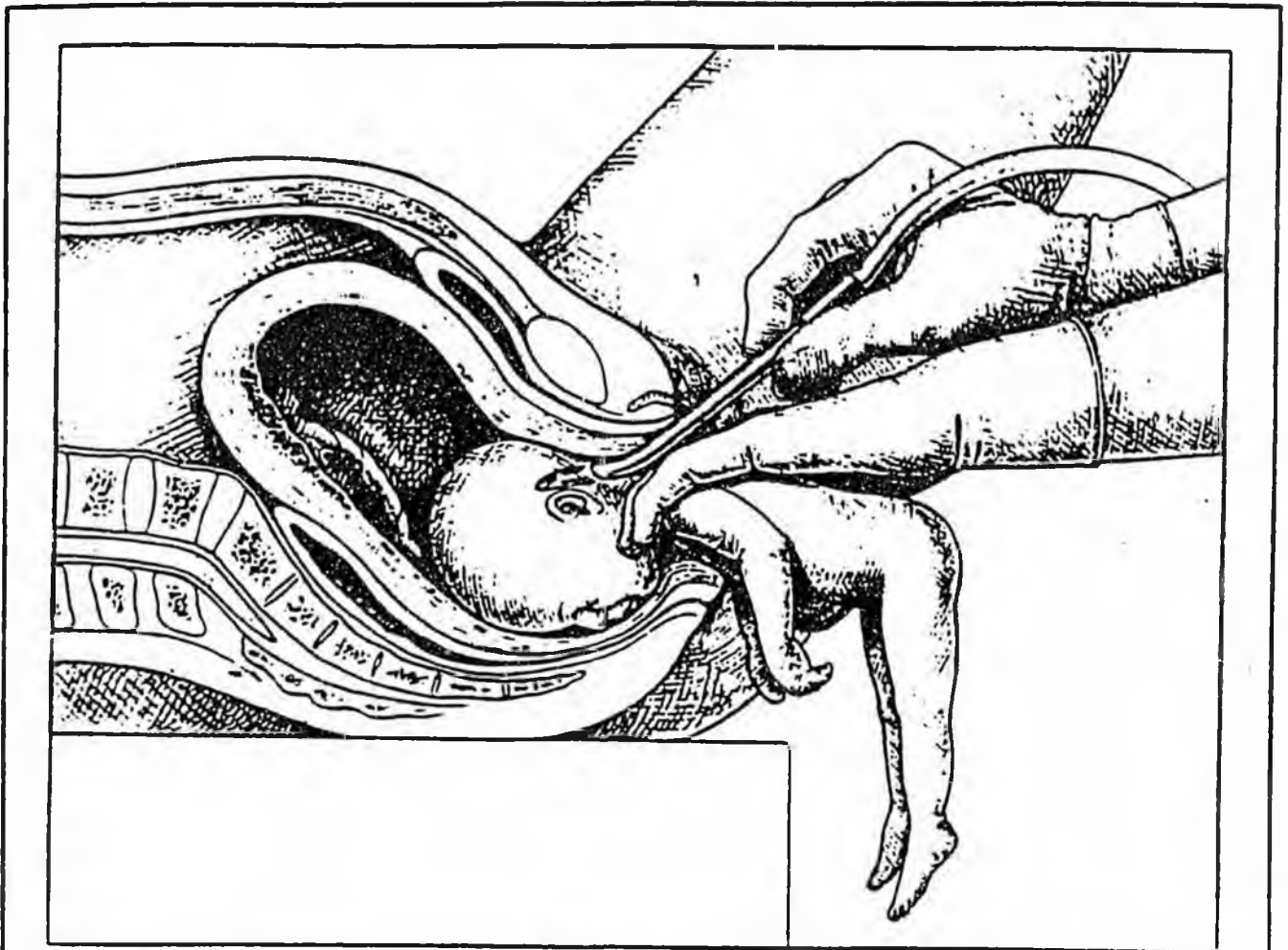
The Supreme Court has never said that there is a constitutional right to kill human beings who are mostly born.

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*.

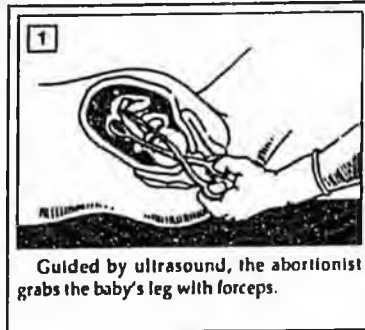
## STEP 5



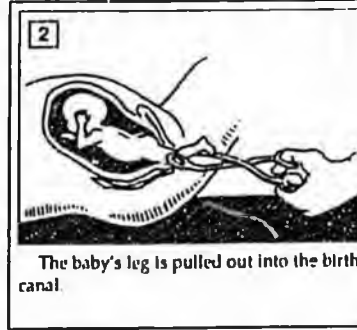
“[T]he surgeon then forces the scissors into the base of the skull... [H]e spreads the scissors to enlarge the opening. Th surgeon removes the scissors and introduces a suction catheter into this hole and evacuates the skull contents. With the catheter still in place, he applies traction to the fetus,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

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

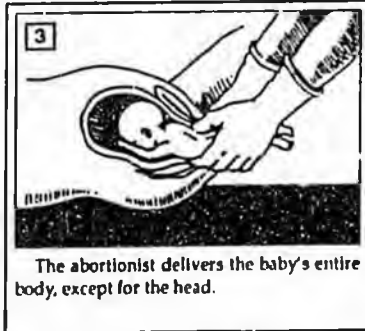
## PARTIAL-BIRTH ABORTION



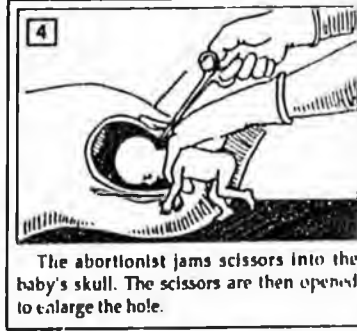
Guided by ultrasound, the abortionist grabs the baby's leg with forceps.



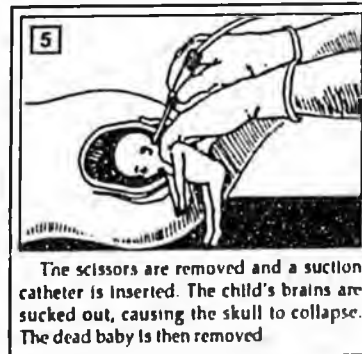
The baby's leg is pulled out into the birth canal.



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

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.

*Elinore Jacobsen*  
*225-3395 p*  
*247-3395 yf*  
*2125 Second Ave*  
*Gettysburg*



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

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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 from 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.



RECEIVED BY

FEB 14 1996

Rep. Jeannette James

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

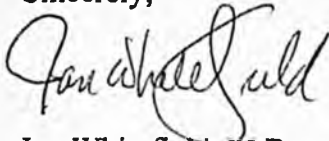
Representative Jeanette James  
February 3, 1997  
Page 2

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,

A handwritten signature in cursive script, appearing to read "Jan Whitefield".

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

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services  
Department of Education  
State of Alaska

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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: Alaska 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 on HB65, dated 2-18-97  
 bill/ subject committee name

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:

Delma J. Joslin  
 Testifier  
RPA District 35  
 Representing (Optional)  
PO Box 277 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 on H.B. 65, dated 18 FEB 1997  
committee name  
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 RAUWALT

Testifier

DIST 35 - RPA - FINANCE CHAIR

Representing (Optional)

PO BOX 823 - 4200 LENO RD - DELTA JCT

Address

895-1946

99737

Phone No.

DATE: 4-19-96  
PAGE: 4-22

## 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's 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 woman) 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 C-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 secretly 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 20 members.

Dr. Nelson Isata: 272-6858

1-800-769-6202  
8:30-9:00

Date: February 17, 1997  
To: Barbara Cotting  
Representative James' office  
From: Patrick Flynn  
Representative Berkowitz's office  
Subject: Bridge line requests

PF

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.

<u>Name</u>	<u>Phone number</u>
Dr. Jan Whitefield	907.563.7228 x241
Dr. Sherry Richey	907.272.6772
Dr. Nelson Isata	907.272.6772
Janet Krepps (or designee)	303.839.1912

Will have to go to Anch L.T.O.

Call 1-800-478-7612

William

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: \_\_\_\_\_

Per your request

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

Thank You,  
Tammy Renee Hall  
Tammy Renee Hall  
Information Assistant

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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 woman) 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 20 members.

# 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.

*safe*

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	Chair V-HSTA	Co.	
Dept.		Phone #	258-8111
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 appropriate 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.

TESTIMONY OF BRENDA SHAFER, R.N., PAGE 2

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.

TESTIMONY OF BRENDA SHAFER, R.N., PAGE 3

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

TESTIMONY OF BRENDA SHAFER, R.N., PAGE 4

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

TESTIMONY OF BRENDA SHAFER, R.N., PAGE 6

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

TESTIMONY OF BRENDA SHAFER, R.N., PAGE 7

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.

**DRIVER OHIO LICENSE**

BRENDA R SHAFER  
 100 TAMARACK TR  
 SPRINGBORO OH 45066

LICENSE OR LEASE TYPE RC50  
 CLASS D

BIRTH DATE 06 27 1986  
 SEX F HT 5 05 WT 125 HAIR BLD GRN

W. J. DODD, JR.  
 DIRECTOR  
 DIVISION OF MOTOR VEHICLES

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

**1995** **1997**

**BRENDA R SHAFER**  
 License Number: RN-21705  
 SSN: 029-092-4186

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



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ATTN: CHRIS  
1401 E. STROOP ROAD  
DAYTON, OH 45429

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

PATIENT NAME WOMENS MED+ CENTER

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	PERFORMED BY	SKILLS	LICENSE NO.	DATE	SHIFT	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	<del>160.192 00</del>
3	PRATT, BRENDA	REGNUR		9 30 93	1	930	1730	8 00	20.24 00	<del>160.192 00</del>

KIMBERLY QUALITY CARE EMPLOYEE TIME CARD

EMPLOYEE NAME (Last Name, First Name) Pratt, Brenda SOCIAL SECURITY NO. 236-92-8686 LICENSE NO. 21-7060

CLIENT NAME (Last Name, First Name) WMC CLASSIFICATION CODE 06 1735

DAY	DATE	CIRCLE SHIFT WORKED	AREA WORKED					TIMES		TOTAL HOURS TO BE BILLED AND PAID	CLIENT MUST SIGN & DATE
			HOSP PVT	GEN STAFF	NLM CCU	SUP CHG	ICU CHG	IN	OUT		
SAT		4 5 8									
SUN		4 5 8									
MON		1 2 3									
TUES	9/28	① 2 3		✓				10:30	3:30	4 1/2	orientation
WED	9/29	① 2 3		✓				9:30	5:45	8	
THUR	9/30	① 2 3		✓				9:30	5:45	8	
FRI		1 2 3							3:30		

EMPLOYEE SIGNATURE Brenda Pratt GRAND TOTAL HOURS TO BE BILLED AND PAID 20 1/2

BILLABLE EXPENSE TRAVEL - NO BILL CHECK NUMBER INSTANT PAY NUMBER I AGREE TO TOTAL HOURS AND HAVE READ AND AGREE TO TERMS AND CONDITIONS ON REVERSE SIDE

HANDLING CHARGE PAYROLL DED. AMT LOCATION WEEK ENDING

151

\*\*\* CRITICAL \*\*\*

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

KIMBERLY QUALITY CARE  
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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				CHECK#			
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PRATT, BRENDA																		
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# CONGRESSIONAL RECORD — SENATE

November 7, 1995

S-16743

## 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 in 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 chromosomal 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 on AN ACT RELATING TO PARTIAL-BIRTH ABORTION dated 02/18/97  
 committee name  
 bill/subject

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? ~~NO~~

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 CRUEL 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*

(TERESA LUNDY)

Testifier

Representing (Optional)

P.O. BOX 2975 SITKA AK 99735

Address

966-2204 (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:

Gunnar Larduan

Testifier

self

Representing (Optional)

712 Monastery Street, Sitka, AK 99835

Address

(907) 747-2634

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.

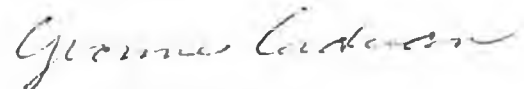
Today, there is a lot of emphasis placed on wise use of our resources. The knowledge, skills, and insights of those who reside in our state cannot be overlooked. They represent a valuable asset. Any abortion, and this includes partial birth abortions, limits the future availability of this resource.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

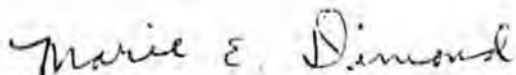
Lets face the real truth, this abortion issue is not about the unborn child, it's for the most part, about giving certain individuals the right to live a promiscuous lifestyle and have us, the Public pay for their selfish pleasures.

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

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.

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

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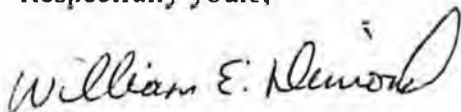
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Again, please pass this House Bill # 65, our future depends on it!

Respectfully yours,



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, dated 2/18/77  
 bill/subject

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

Signed: John Palumbo  
 Testifier

Self  
 Representing (Optional)

311 Workman 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 on Partial Birth Abortions , dated 2/18/97  
HB65 , dated 2/18/97  
 bill/subject

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 Etoline 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 Liaison 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, dated 2/18/97  
 bill/subject

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

Signed: Mary Soltis  
 Testifier

Representing (Optional)

405 Verstevoie 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, dated 2/18/97  
bill/subject

I want to support this bill,  
 I do not want these little ones  
 Killed. This is wrong. I sup-  
 port HB65.

Signed: Blaine Pogue  
 Testifier

Representing (Optional)  
410 Lake St. Sitka AK  
 Address

747-3019  
 Phone No.



# Alaska State Legislature

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

I Support ~~Bill~~ HB65 on the  
 grounds ~~A~~ violates the  
 bill of rights of the Constitution  
 of the United States and the  
 values on which our nation  
 was founded & has prospered.

Signed: Brenda Dean for the Patrick Dean  
 Testifier Si. Fangley

Representing (Optional)  
708 Sistrad St. Sitka Ak.  
 Address 99858  
(907) 747-3239  
 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 of 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

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.

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

RECEIVED BY

FEB 24 1997

Rep. Jeannette James

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,

A handwritten signature in cursive script, appearing to read "Tammy Renee Hall".

Tammy Renee' Hall  
Information Assistant

Enclosures: 2



# Alaska State Legislature

Please enter into the record my testimony to the HOUSE STATE AFFAIRS Comm.  
 committee on H.B. 65, dated 18 FEB 1997.  
 bill/ subject

I cite the article (read at teleconference)  
 from Wall Street Journal 7-19-96 - & 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 RAWALD  
 Testifier  
DIST 35 - RPA - FINANCE CHAIR  
 Representing (Optional)  
PO BOX 823 - 4200 LENERD - DELTA JCT  
 Address 895-1946 99737  
 Phone No.



# Alaska State Legislature

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

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:

Delma J. Jasin

Testifier

RPA District 35

Representing (Optional)

PO Box 277 Delta Tot AK 99737

Address

(907) 895-4565

Phone No.



Susan Lemagic, M.D., F.A.C.O.G  
Chairman, 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 Lemagic. 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

Dept. Affected: Health and Social Services  
BRU: Medical Assistance

Sponsor: Kott  
Requestor: House State Affairs

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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGES IN REVENUES ( )						
-------------------------	--	--	--	--	--	--

**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY98	FY99	FY00	FY01	FY02	FY03
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

POSITIONS	FY98	FY99	FY00	FY01	FY02	FY03
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  
 Approved by Commissioner: Karen Perdue, Commissioner  
 Agency: Department of Health & Social Services

Phone: 465-3355  
 Date: 01/16/97  
 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						
<b>TOTAL OPERATING</b>	**	**	**	**	**	**
<b>CAPITAL EXPENDITURES</b>	**	**	**	**	**	**
<b>CHANGE IN REVENUES ( )</b>	**	**	**	**	**	**

**FUND SOURCE:**

(Thousands of Dollars)

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

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 a 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 Bover  
 Agency: Department of Administration

Date: 2/17/97

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**HB**

**67**

*ordered  
Final*

0-LS0331VE  
Cook  
3/28/97

**CS FOR HOUSE BILL NO. 67(STA)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTIETH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE STATE AFFAIRS COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVE RYAN**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating, for purposes of eligibility for a permanent fund dividend, to  
2 absences from the state while on certain sabbaticals; and providing for an  
3 effective date."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 \* **Section 1.** AS 43.23.005 is amended by adding a new subsection to read:

6 (h) An individual who was qualified on January 1, 1997, to receive longevity  
7 bonus payments and is no longer qualified to receive longevity bonus payments may  
8 take a sabbatical for a period of up to 12 consecutive months by notifying the  
9 department of the period the individual elects to be on sabbatical status. The notice  
10 shall be provided to the department at least 30 days before the first day of the  
11 sabbatical period. While on sabbatical status, the individua' may be absent from the  
12 state at any time without being disqualified from receiving a permanent fund dividend  
13 solely on the basis of the absence. An individual who has taken a sabbatical under  
14 this subsection or under AS 47.45.035 may not elect to take a subsequent sabbatical

1 under this subsection until a period of at least five years has elapsed beginning on the  
2 day the sabbatical ended.

3 \* Sec. 2. AS 43.23.095(8) is amended to read:

4 (8) "state resident" means an individual who is physically present in the  
5 state with the intent to remain permanently in the state under the requirements of  
6 AS 01.10.055 or, if the individual is not physically present in the state, intends to  
7 return to the state and remain permanently in the state under the requirements of  
8 AS 01.10.055, and is absent only for any of the following reasons:

9 (A) vocational, professional, or other specific education for  
10 which a comparable program was not reasonably available in the state;

11 (B) secondary or postsecondary education;

12 (C) military service;

13 (D) medical treatment;

14 (E) service in Congress;

15 (F) other reasons which the commissioner may establish by  
16 regulation;

17 (G) service in the Peace Corps;

18 (H) to care for the individual's terminally ill parent, spouse,  
19 sibling, child, or stepchild;

20 (I) for up to 220 days to settle the estate of the individual's  
21 deceased parent, spouse, sibling, child, or stepchild; [OR]

22 (J) to care for a parent, spouse, sibling, child, or stepchild with  
23 a critical life-threatening illness whose treatment plan, as recommended by the  
24 attending physician, requires travel outside the state for treatment at a medical  
25 specialty complex;

26 (K) unpaid sabbatical under AS 47.45.035; or

27 (L) sabbatical under AS 43.23.005(h);

28 \* Sec. 3. This Act takes effect January 1, 1998.

# HOUSE COMMITTEE REPORT

(7)  
Date Referred to Committee: January 15, 1997

FURTHER REFERRALS: Labor and Commerce  
Finance

Date of Committee Action: 3/27/97

The STATE AFFAIRS Committee considered:

HB 67

HOUSE BILL NO. 67

LONGEVITY BONUS SABB'TCL:PFD ELIGIBILITY

"An Act relating, for purposes of eligibility for a permanent fund dividend, to an absence from the state while on an unpaid sabbatical under the longevity bonus program; and providing for an effective date."

recommends it be replaced with the following committee substitute \_\_\_\_\_  the same title  
 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) \_\_\_\_\_  fiscal note(s) \_\_\_\_\_  
 zero fiscal note(s) REVENUE-  zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Jeannette James</i>	✓			
<i>Ken [unclear]</i>			✓	
<i>Edith Kent</i>	✓			
<i>Marilyn [unclear]</i>	✓			
<i>Fred [unclear]</i>	✓			
<i>[unclear]</i>			✓	
<i>Leon M. [unclear]</i>	✓			

CHAIR'S SIGNATURE *Jeannette James*

**Sponsor Statement:**  
**HB 67 Sabbatical to Permanent Fund Eligibility**

Many of Alaska's elderly residents often find themselves wanting to or needing to escape to warmer climates during the harshest of winter months. The same residents find themselves needing to leave to care for family members or attend to business concerns. Unfortunately, an elderly resident who leaves the state for more than 3 months loses eligibility for the Permanent Fund Dividend. While this seems practical at first blush, our senior citizens, rely the heavily on their dividends for their very financial survival, and are often on legitimate sabbaticals created by the Legislature for Longevity Bonus purposes.

HB 67 would conform eligibility requirements for the Permanent Fund Dividend with those of the unpaid sabbatical provisions in A.S. 47.45.035 governing the Longevity Bonus Program.

The recipient of the Longevity Bonus may take an unpaid sabbatical for a period of up to 12 months. A recipient having properly notified the Department of Administration 30 days before leaving the State of Alaska may make application upon return to the state to again receive the bonus. Moreover, an unpaid sabbatical recipient may only take one such sabbatical every five years.

Put simply , HB 67 would allow a senior citizen to take a sabbatical from the State of Alaska no more than once every 5 years without losing eligibility for the Permanent Fund Dividend. This bill does not constitute a loosening of the eligibility process for receipt of the Permanent Fund. It is tailored specifically to allow those who are on a justifiable sabbatical as recognized by §47.45.035 to remain eligible for the Permanent Fund Dividend.

From a policy perspective, HB 67 would be a great achievement as it encourages senior citizens to maintain residence in the State of Alaska by not punishing them financially for leaving on a justifiable sabbatical as recognized by the Longevity Bonus Program. Further, HB 67 encourages Alaska's seniors citizens to travel and conduct business for themselves and others which in these tight budgetary times will force savings out of payments made under the Longevity Bonus program.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

February 25, 1997

**SUBJECT:** Absences and eligibility for PFDs (HB 67)

**TO:** Representative Jeannette James, Chair  
House State Affairs Committee  
Attn: Barbara Cotting

**FROM:** Tamara Brandt Cook <sup>TBC</sup>  
Director of Legal Services

You have asked whether HB 67 poses constitutional problems. The bill establishes unpaid sabbaticals taken under the longevity bonus program as allowable absences in residency determinations under the permanent fund dividend program.

It is possible that this bill if enacted would be susceptible to challenge under the equal protection clause of the state constitution. Under the state equal protection clause, a statute is evaluated on a sliding scale under which the goal of the legislation and the importance of the individual rights affected are considered. (State v. Anthony, 810 P.2d 155 (Alaska 1991)) As the importance of the individual rights affected increases, the burden increases on the state to show that the state's goal justifies the intrusion on the individual's interests in equal treatment and that the state's goal is rationally related to the means chosen to achieve the goal.

An individual's interest in receiving a permanent fund dividend is accorded a low level of protection under the state equal protection clause because only an economic interest is implicated and that interest is not based on the need of the applicant. (Underwood v. State, 881 P.2d 322 (Alaska 1994)) It is possible that, in applying this test, the court would find that a sufficiently rational basis exists for treating these seniors differently from other residents who have good reasons for leaving the state, but that basis is not immediately apparent to me.

Bear in mind that a distinction will be drawn not only between seniors and non-seniors but also between seniors who are part of the longevity program and other seniors (possibly of the same ages and absent for the same purposes) who are not part of the longevity bonus program because of its recently enacted phase-out provision.

TBC:glc  
97-116.glc

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TBC:glc  
97-116.glc

2/26/97

Post-it Fax Note 7671	Date	# of pages
To: Jeannette James	From: Barbara Cotting	
Co./Dept: PFD	Co.:	
Phone #	Phone #	
Fax # 2096	Fax #	



Senior Voice/Jim Prevost

Anchorage Pioneers' Home, now under the control of the newly-created Division of Alaska Longevity Programs of the Department of Administration.

State officials say the restructuring will enable the programs to run more efficiently and allow the Division of Senior Services to focus on its expanding role in home and community-based care.

"It was done primarily to recognize that at [the Division of] Senior Services, the home and community-based side of the operation has grown," said Alison Elgee. Elgee is deputy commissioner of the Department of Ad-

ministration projects, and to ensure the growing elderly population to remain at home with their families.

Elgee noted that the creation of the Division of Senior Services three years ago combined the Older Alaskans Commission (now called the Alaska Commission on Aging) and the Division of Pioneer Benefits under one roof. Since then, however, "the operations at DSS have expanded tremendously beyond just what those two things were."

page 28 please

# Bonus sabbatical jeopardizes dividend eligibility

## New bill would change rules for Permanent Fund

by David Washburn  
Senior Voice reporter

If you're planning a lengthier absence from Alaska this year as a result of the Longevity Bonus program's new "unpaid sabbatical" rule, be warned that it could cost you your Permanent Fund check.

"We don't recognize [the sabbatical] as an allowable absence," said Permanent Fund division director Nanci Jones. "If you're gone more than 180 days in the year, unless you are specifically allowed by law, you will not be eligible for the dividend."

The sabbatical rule went into effect in January and allows people in the Longevity Bonus program to be out of the state for up to a full year and not lose permanent eligibility for the program. Although they won't get a Bonus check while they

are gone, by following proper notification procedures they can resume receiving the monthly \$100 to \$250 payments when they return to the state.

However, Permanent Fund dividend rules require that they lose eligibility for a dividend check for the year they are gone, and that they re-qualify by remaining in the state and meeting the other program guidelines before getting another dividend check.

A bill introduced this session seeks to change that rule and enable people taking a Longevity Bonus sabbatical to remain eligible for the dividend. Sponsored by senators John Torgerson and Tim Kelly, Senate Bill 4 adds unpaid sabbaticals to the list of allowable excuses for being physically absent from the state for more than the 180-day maximum limit.

Torgerson said he and Kelly were approached by constituents who questioned having to lose a dividend check while taking an authorized sabbatical. The bill will help make the rules for the two differ-

ent programs more consistent, he said.

"It just makes sense to go ahead and do that."

Jones, however, said the bill is unnecessary because even though they may lose one dividend check for the year they are gone, people who return from a sabbatical can re-qualify and resume getting their dividend checks in subsequent years.

"I think there's a little confusion right there with the author of that bill with what the implications are," she said.

Jones noted that the Longevity Bonus sabbatical is an unpaid absence. Since people lose their Bonus checks for time spent out of the state, she argued, why should they not expect to do the same for the Permanent Fund dividend?

"The physical presence is the driver for the Longevity Bonus program, and that's the basis for our program," she said. If the exception in SB 4 is granted, Permanent Fund checks will go to people

see "New bill", page 28 please

7

Ombudsman under fire  
Forgery charge for LTC advocate

13

Preparing for Rony  
Center Section

23

Awakening Giant, part 2  
Going Places

## o control homes, bonus...

ision, Elgee said. Pioneers' Homes Ad-board, a panel of state and private appointees help determine policy for homes, discussed the several months and did it, she said.

recommended it. At the two divisions be distinct."

Montano, administrator of the Fairbanks Pioneers' homes, said she is very about the new divi-

ing very great at the homes and our is different than Senior Services," she said. in-patient facilities, focusing on commu-

Pioneers' homes hold a appeal for Alaskans, ing in their own divi- y will be in a better n to play on that . Montano said.

her important differ- ll be the separation t the Pioneers' homes,

which include assisted-living units, and the Division of Senior Services, which regulates assisted-living facilities in the state through its licensing duties.

Having the assisted-living "watchdog" agency in the business of running its own assisted-living facilities created a question of conflict of interest, Montano said.

"Licensing helps us examine ourselves, look at our standards. And it's always better if that's coming from a different perspective."

### No abrupt changes

Montano, who has been at the Fairbanks home for seven and a half years, said the creation of the Division of Alaska Longevity Programs is not really a new idea, but rather a return to the system the state had in place for years.

"When I first came, [the Pioneers' homes] were a separate division. About three years ago that changed, and we were incorporated under

Senior Services."

Nevertheless, with the recent return to separate divisions, many people expressed concerns, Montano said.

"I've tried to emphasize that it was always this way. It was only changed for a couple of years, and now it's going back to the way it was. It shouldn't be considered scary or a negative change. It can help us."

The reorganization should have no effect on the day-to-day operations of the Pioneers' homes, Montano said.

Elgee agreed and added that the change will not cost the state extra money.

"[Jim Kohn's] position was not replaced within the Division of Senior Services because he was running the same programs that are now under him."

Despite the new organization, staff will remain pretty much in the same offices that they have been using, Elgee said. "This did not require any new money or increased staff."

## New bill...

from page 1

who are not in the state, while Longevity Bonus checks will not, she said.

Meanwhile, the people who run the Longevity Bonus program say most clients they talk with are well aware of the potential loss of a dividend check. A booklet published by the Permanent Fund division spells out clearly that Bonus sabbaticals are not allowable absences.

Longevity Bonus program supervisor Karen Phillips said that 130 people are currently on the unpaid sabbatical, although not all of them will be gone for 12 months.

"It's amazing how many seniors ask if [taking an unpaid sabbatical] is going to affect their permanent fund dividend. I think they're surprised that it will," Phillips said. However, she added that she has "not heard anyone say they would decline a sabbatical if it meant they would lose their Permanent Fund."

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center,

# Hearing Problems?

## TAKE A LOOK INSIDE YOUR EAR CANAL

The Video Otoscope is a

Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: Longevity Bonus Sabbatical PFD Eligibility BRU: Permanent Fund Dividend  
 Component: Permanent Fund Dividend  
 Sponsor: Representative Ryan  
 Requestor: (H) STA COMPONENT SERIAL NO. 981

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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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 Permanent Fund	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

POSITIONS:

FULL-TIME					
PART-TIME					
TEMPORARY					

ANALYSIS: (Attach a separate page if necessary)

This bill would make the unpaid sabbatical under AS 47.45.035 an allowable absence for PFD eligibility purposes. There will be no fiscal impact on PFD's operating budget.

Prepared by: Nanci A. Jones, Director  
 Division: Permanent Fund Dividend  
 Approved by Commissioner: Wilson L. Condon  
 Agency: Revenue

Phone: 465-2323  
 Date: February 25, 1997  
 Date: February 25, 1997

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**HB**

**78**

BILL: - SB 136 . SHORT TITLE: STATE FISCAL PROCEDURES & PERFORM. REPORT  
BILL VERSION: HCS CSSB 136(FIN)  
SPONSOR(S): FINANCE

CURRENT STATUS: 3RD RDG,4/18 CAL(H) STATUS DATE: 04/17/97

TITLE: "An Act relating to state fiscal procedures, to the state budget, to agency performance reports, and to appropriation bills."

03/12/97	695	(S)	READ THE FIRST TIME - REFERRAL(S)
03/12/97	695	(S)	FINANCE
03/26/97	874	(S)	FIN RPT CS SDP 1NR NEW TITLE
03/26/97	874	(S)	DP: SHARP, PEARCE, PHILLIPS, PARNELL,
03/26/97	874	(S)	DP: TORGERSON; NR: ADAMS
03/26/97	874	(S)	ZERO FISCAL NOTE TO SB & CS (GOV)
04/02/97	934	(S)	RULES TO CALENDAR AND 1NR 4/2/97
04/02/97	937	(S)	MOVED TO BOTTOM OF CALENDAR
04/02/97	943	(S)	RETURNED TO RLS COMMITTEE
04/09/97	1056	(S)	RULES TO CALENDAR 4/9/97
04/09/97	1056	(S)	READ THE SECOND TIME
04/09/97	1056	(S)	FIN CS ADOPTED UNAN CONSENT
04/09/97	1056	(S)	AM NO 1 OFFERED BY PEAPCE
04/09/97	1056	(S)	AM TO AM NO 1 UNAN CONSENT
04/09/97	1056	(S)	AM NO 1 AS AM ADOPTED UNAN CONSENT
04/09/97	1057	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/09/97	1057	(S)	READ THE THIRD TIME CSSB 136(FIN) AM
04/09/97	1058	(S)	PASSED Y18 N- A2
04/09/97	1064	(S)	DONLEY NOTICE OF RECONSIDERATION
04/09/97	1064	(S)	RECON TAKEN UP SAME DAY UNAN CONSENT
04/09/97	1065	(S)	PASSED ON RECONSIDERATION Y20 N-
04/09/97	1065	(S)	TRANSMITTED TO (H)
04/10/97	1052	(H)	READ THE FIRST TIME - REFERRAL(S)
04/10/97	1052	(H)	FINANCE
04/17/97		(H)	FIN RPT HCS(FIN) 6DP 4NR 1AM
04/16/97		(H)	DP: THERRIAULT, HANLEY, KOHRING, MARTIN
04/16/97		(H)	KELLY, FOSTER
04/16/97		(H)	NR: DAVIES, GRUSSENDORF, MOSES, DAVIS
04/16/97		(H)	AM: MULDER
04/16/97		(H)	SENATE ZERO FISCAL NOTE (GOV) 3/26/97
04/16/97		(H)	RULES TO CALENDAR 4/17/97
04/17/97		(H)	READ THE SECOND TIME
04/17/97		(H)	FIN HCS ADOPTED UNAN CONSENT
04/17/97		(H)	ADVANCED TO THIRD READING 4/18 CALENDAR

SB136

CS FOR SENATE BILL NO. 136(FIN) am  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Amended: 4/9/97  
C/fered: 3/26/97

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to state fiscal procedures, to the state budget, to agency  
2 performance reports, and to appropriation bills."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 \* Section 1. AS 14.11.019 is amended to read:

5 Sec. 14.11.019. Grant appropriations. Within the [GENERAL] appropriation  
6 bill authorizing capital expenditures submitted to the legislature under  
7 AS 37.07.020(a)(3) [AS 37.07.020], the governor shall include an appropriation for  
8 grants in the succeeding fiscal year as determined by the six-year capital improvement  
9 project grant schedule prepared under AS 14.11.013.

10 \* Sec. 2. AS 14.11.100(c) is amended to read:

11 (c) The school construction account is established. Funds to carry out the  
12 provisions of this section shall be included within the [GENERAL] appropriation bill  
13 authorizing capital expenditures submitted to the legislature under  
14 AS 37.07.020(a)(3) [AS 37.07.020] and may be appropriated annually by the

1 legislature to the account. If amounts in the account are insufficient for the purpose  
 2 of providing the share to which a borough or city is entitled under this section, those  
 3 funds that are available shall be distributed pro rata among the eligible municipalities.  
 4 [LOCAL GOVERNMENTS] except that the legislature may direct that additional debt  
 5 service on refunding bonds that exceeds the total debt service on the refunded bonds  
 6 be disregarded in whole or in part.

7 \* Sec. 3. AS 24.20.140 is amended to read:

8           **Sec. 24.20.140. Appropriations.** Appropriations for carrying out  
 9 AS 24.20.010 - 24.20.140 shall be set out [FORTH] in the [GENERAL] appropriation  
 10 bill authorizing operating expenditures submitted to the legislature under  
 11 AS 37.07.020(a)(2) or [SUCH] other bills as may be necessary. The council may  
 12 direct the executive director to transfer amounts from one appropriation to another if  
 13 the transfer is considered necessary to accomplish the work of the council. The  
 14 council may not exceed the total amount of the authorized appropriation. All  
 15 expenditures of the council are subject to an independent audit that [WHICH] shall  
 16 be made annually.

17 \* Sec. 4. AS 37.05.316(a) is amended to read:

18           (a) When an amount is appropriated or allocated to a department as a grant  
 19 under this section for a named recipient that is not a municipality, the department to  
 20 which the appropriation or allocation is made shall promptly notify the named recipient  
 21 of the availability of the grant and request the named recipient to submit a proposal  
 22 to provide the goods or services specified in the appropriation act for which the  
 23 appropriation or allocation is made. [AT THE SAME TIME, THE DEPARTMENT  
 24 MAY ISSUE A REQUEST FOR PROPOSALS FROM OTHER QUALIFIED  
 25 PERSONS TO PROVIDE THE SAME GOODS OR SERVICES IN THE SAME  
 26 AREA. THE DEPARTMENT SHALL AWARD THE GRANT TO THE NAMED  
 27 RECIPIENT UNLESS THE OFFICE OF THE GOVERNOR, WITH DUE REGARD  
 28 FOR THE LOCAL EXPERTISE OR EXPERIENCE OF THOSE MAKING  
 29 PROPOSALS, DETERMINES THAT AN AWARD TO A DIFFERENT PARTY  
 30 WOULD BETTER SERVE THE PUBLIC INTEREST. IF THE GRANT IS  
 31 AWARDED TO A PARTY OTHER THAN THAT NAMED BY THE

1 LEGISLATURE, THE BASIS OF THAT ACTION SHALL BE STATED IN  
 2 WRITING AT THE TIME THE GRANT IS ISSUED AND A COPY OF THE  
 3 WRITTEN STATEMENT SHALL BE SENT TO THE LEGISLATIVE BUDGET  
 4 AND AUDIT COMMITTEE.] A grant agreement must be executed within 60 days  
 5 after the effective date of the appropriation or allocation.

6 \* Sec. 5. AS 37.07.020(a) is amended to read:

7 (a) The governor shall prepare [AND SUBMIT TO THE LEGISLATURE  
 8 BEFORE THE FOURTH LEGISLATIVE DAY] a budget for the succeeding fiscal  
 9 year that [WHICH] must cover all estimated receipts, including all grants, loans, and  
 10 money received from the federal government [,] and all proposed expenditures of the  
 11 state government. The budget [SUBMITTED BY THE GOVERNOR] shall be  
 12 organized so that the proposed expenditures for each agency are presented separately.  
 13 The budget must be accompanied by the following separate bills: (1) an  
 14 appropriation bill authorizing the operating and capital expenditures of the state's  
 15 integrated comprehensive mental health program under AS 37.14.003(a); (2) an  
 16 appropriation bill authorizing state operating expenditures other than those  
 17 included in the state's integrated comprehensive mental health program; (3) an  
 18 appropriation bill authorizing capital expenditures other than those included in  
 19 the state's integrated comprehensive mental health program; and (4) [A  
 20 GENERAL APPROPRIATION BILL TO AUTHORIZE THE PROPOSED  
 21 EXPENDITURES, AND] a bill or bills covering recommendations, if any, in the  
 22 budget for new or additional revenue. The budget for the succeeding fiscal year and  
 23 each of the bills [PROPOSED GENERAL APPROPRIATION BILL] shall become  
 24 public information on December 15 [OF EACH YEAR] at which time the governor  
 25 shall submit copies to the legislature and make copies available to the public. The  
 26 bills, identical in content to the copies released on December 15, shall be delivered  
 27 to the rules committee of each house before the fourth legislative day of the next  
 28 regular session for introduction.

29 \* Sec. 6. AS 37.07.020(b) is amended to read:

30 (b) In addition to the budget and bills submitted under (a) of this section  
 31 [GENERAL APPROPRIATION BILL], the governor shall submit a capital

1 improvements program and financial plan covering the succeeding six fiscal years.

2 \* Sec. 7. AS 37.07.040 is amended by adding a new paragraph to read:

3 (9) for each department in the executive branch, report to the legislature  
4 by the 45th day of each regular session the amount of money appropriated to the  
5 department that is expected to lapse into the general fund at the end of the current  
6 fiscal year.

7 \* Sec. 8. AS 37.07.062(a) is amended to read:

8 (a) Each [THE GENERAL] appropriation bill authorizing capital  
9 expenditures required to be submitted to the legislature in AS 37.07.020(a) must be  
10 accompanied by documents supporting the expenditures [CONTAIN A SEPARATE  
11 SECTION FOR CAPITAL OUTLAYS WHICH IS DIVIDED INTO SUBSECTIONS]  
12 for each of the capital projects funds (AS 44.42.080). The documents must list  
13 [WHICH LISTS], for each project, the (1) project identification number; (2) project  
14 title; (3) source of funding; (4) amount expended on the project during the preceding  
15 fiscal year, the amount authorized for the current fiscal year, and the amount proposed  
16 to be expended during the succeeding fiscal year; (5) estimated start for construction;  
17 (6) schedule of bond elections pertaining to the appropriation, including elections  
18 previously held. The total appropriation to each capital projects fund must be reflected  
19 in the balance sheet of each fund as of June 30 of each fiscal year.

20 \* Sec. 9. AS 37.07.062(b) is amended to read:

21 (b) Upon the effective date of each [THE GENERAL] appropriation bill  
22 authorizing capital expenditures, the amounts appropriated by the bill for capital  
23 outlay shall be paid into the appropriate capital project funds established under  
24 AS 44.42.080.

25 \* Sec. 10. AS 37.07.070 is amended to read:

26 **Sec. 37.07.070. Legislative review.** The legislature shall consider the  
27 governor's proposed comprehensive operating and capital improvements programs and  
28 financial plans, evaluate alternatives to the plans, make program selections among the  
29 various alternatives and determine, subject to available revenues, the level of funding  
30 required to support authorized state services. The operating and capital budgets of  
31 each agency shall be separately reviewed. During each regular session of the