

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

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DESCRIPTION

1466

2007 HOUSE JUDICIARY

HB 1466

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1466

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 1/22/07

Recorder Job Number: 1524

Committee Clerk Signature *W. Amos*

Minutes:

Chairman DeKrey: We will open the hearing on HB 1466.

Rep. James Kerzman: (see attached testimony).

Rep. Klemin: Is the same as the SD bill that was passed down there and then was subsequently referred.

Rep. James Kerzman: I believe so, but I'm not sure. I believe they are similar.

Rep. Koppelman: Wasn't the SD bill one that was to take effect immediately and that's why it was challenged vs. as you explained your bill, this would be more of a trigger bill. If the court decisions allows this to go into effect that prior to that it would basically be dormant.

Rep. James Kerzman: I believe so.

Chairman DeKrey: Thank you. Further testimony of support.

Stacey Pflieger, ND Right to Life Association: (see attached testimony). I would like to address Rep. Klemin's question, it is my understanding that this bill is drafted after the language of the LA trigger bill which was passed in the last legislative year, 2006. It is also my understanding that TX, VA, OK and UT are looking at similar legislation in 2007.

Rep. Koppelman: Are there other states which currently have something like this on the books.

Stacey Pflieger: It is my understanding that LA's is in effect.

Chairman DeKrey: Thank you. Further testimony in support.

Christopher Dodson, Exec. Director, ND Catholic Conference: (see attached testimony).

LA did pass a similar bill, but there are other states that haven't passed anything recently, but they have a trigger mechanism that is if the Court's opinions were to change, certain provisions of their existing laws would go back into effect; so it's essentially a trigger in another way. ND doesn't have something like that. There are few provisions, but only a few existing in the Code that would go back into effect if the Court were to issue a different opinion regarding some of these matters. I think SD's bill is different. I have copies for anyone who wishes to look at it.

Finally, the reason we put this bill in, not just because it's the right thing but the specifics of the bill, as we understand it, would not penalize the woman and our support is contingent on that.

If there are any questions about that, we would be happy to work with the committee to make sure that the amendments clarifies that there would be no penalty or criminal conviction of any kind for the woman.

Rep. Kretschmar: So the language in the bill is an attempted abortion, a violation of this act in the bill. On page 1, line 23, and page 2, line 1-14. Is an attempted abortion a violation of this act?

Christopher Dodson: That is my understanding in reading the bill.

Rep. Koppelman: What was the status of ND law before the courts changed the law in their decision.

Christopher Dodson: This is a rather confusing question, when you track down the history, so I don't have a good answer to that. Most of our existing laws, the Abortion Control Act, were passed after the Roe decision.

Chairman DeKrey: Thank you. Further testimony in support.

Janne Myrdal, Concerned Women for America in ND: Our organization certainly supports this bill. We think it's a very wise position to have a trigger bill.

Rep. Onstad: All the previous presenters referred to SD's bill. What did the vote come out in SD when they went to the vote of the people, was that for or against.

Janne Myrdal: From what I understood, when it came to the vote in SD, the voters in SD turned that down because they thought that there was no exception for rape and incest; which, in fact, there was in ND somewhat of an exception except that they would have to report it within 72 hours, I believe. That was not a trigger bill. The cost to the state of ND was a concern to the voters.

Chairman DeKrey: Thank you. Further testimony in support. Testimony in opposition.

Connie Hildebrand, American Association of University Women: I would like to introduce Muriel Peterson.

Muriel Peterson, American Association of University Women: (see attached testimony).

Chairman DeKrey: Thank you. Further testimony in opposition.

Connie Hildebrand, ND chapter of the National Association of Social Work: I would like to introduce John Aikens.

John Aikens, ND Chapter of the National Association of Social Work: (see attached testimony).

Rep. Koppelman: Your organization is different it seems to me, from the others that testified, in that they are primary advocacy organizations or groups that take positions on these issues. Your organization seems to be a professional association. Is it a requirement that anyone going into social work profession hold a pro choice ideological position vs. a pro life?

John Aikens: No sir, it is not.

Rep. Koppelman: This is a national statement, do you know if ND member feel the same way.

John Aikens: The Assembly voted to testify against the bill.

Rep. Koppelman: The National one or the ND one.

John Aikens: The national one.

Chairman DeKrey: Thank you. Further testimony in opposition.

Connie Hildebrand, League of Women Voters, ND: I would like to introduce Vicky Altringer.

Vicky Altringer, League of Women Voters, ND: (see attached testimony).

Rep. Kingsbury: How large is the membership of the League of Women Voters in ND.

Vicky Altringer: I'll defer to Connie Hildebrand.

Connie Hildebrand: The league has two chapters, one in Bismarck, and one in Fargo. The Bismarck chapter has between 30-40 members and I think the Fargo chapter has about the same.

Chairman DeKrey: Thank you. Further testimony in opposition.

Martin Wiesznecki: I am here to address the flaws of this bill from the pro-life perspective, speaking on behalf of the unborn children that are killed in ND, 1200 every year, 100 every month. The problem with the trigger bill is it's basically cowardly. It says let somebody get the law change and we'll just follow behind. The trigger will never be pulled if no state ever challenges Roe vs. Wade, because there will no mechanism by which the Supreme Court can ever reverse itself, unless it has the law that directly confronts the existing situation. I believe, for the purpose of defending life, that ND should pay the price so that the unborn children do not have to continue to pay the price for our indifference to their right to life. A trigger bill is just a cowardly "pro-life bill". It doesn't rise to the necessity of education. Secondly, the bill itself is

logically flawed because it does not provide the same protections for unborn life that the murder statutes in the state provide for people who are already born. Therefore, it perpetuates the discrimination against the unborn, does not treat them as 14th amendment persons, and therefore, it is impossible for a statute that like, even without a trigger to provide a proper challenge to Roe vs. Wade. If a mother were to murder her two year child, we have no exception in the statute for such behavior. But according to even the pro-life speakers here, the Catholic Conference, ND Right to Life, a mother should be excepted if she does that to her unborn child. Discrimination in the law against the unborn exists. Justice Blackman said, when he wrote the Roe vs. Wade opinion, that because the states do not treat the unborn the same as the born, the unborn cannot be considered persons for purposes of the 14th amendment; therefore, having no constitutional protection, they may be killed because the right to privacy is constitutional. Until we come to the point where we treat the unborn as the born, we will not lead.

Chairman DeKrey: Thank you. Further testimony in opposition.

Renee Stromme, Exec. Director of ND Women's Network: (see attached testimony).

Chairman DeKrey: Thank you. Further testimony in opposition.

Amy Jacobson, Planned Parenthood: (see attached testimony).

Chairman DeKrey: Thank you. Further testimony in opposition.

Randi Roerick, ND Council on Abused Women's Services/Coalition Against Sexual Assault in ND: (see attached testimony).

Chairman DeKrey: Thank you. Further testimony in opposition. We will close the hearing.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1466

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 1/24/07

Recorder Job Number: 1846

Committee Clerk Signature

Nawn Pennoe

Minutes:

Chairman DeKrey: We will take a look at HB 1466.

Rep. Delmore: Can we obligate future legislative bodies in this way. This is the trigger bill. Is that constitutional?

Chairman DeKrey: Obviously you're not supposed to obligate a future legislature, but I don't know that this would do that, because they wouldn't have to vote on it or anything.

Rep. Meyer: Has the penalties for the mother been addressed.

Chairman DeKrey: This is just a trigger bill.

Rep. Koppelman: I move a Do Pass.

Rep. Heller: Seconded.

Rep. Delmore: There are no provisions in the bill for rape or incest, correct.

Rep. Klemin: Were there any amendments offered on this bill.

Chairman DeKrey: No one on the committee offered any. I don't want to reopen the hearing on the bill.

Rep. Wolf: One of the things that were mentioned in the hearing on Monday, was that the trigger bill would go into effect if Roe vs. Wade is ever overturned. But somebody said in testimony that it also can be, from the way I understood it, if our Attorney General ever

determined that it could be put into place, even though Roe vs. Wade is still in effect, is that correct.

Chairman DeKrey: I haven't heard that.

Rep. Klemin: That's the way any effective date reads, though. It's not could be, but would be. The Attorney General has to certify it with the Secretary of State and Legislative Council, because with any new decision that does in any way conflict, it's probable that this act could be upheld, which could mean potentially that they are overturning Roe vs. Wade.

Chairman DeKrey: Further discussion? The clerk will call the roll.

8 YES 4 NO 2 ABSENT

DO PASS

CARRIER: Rep. Koppelman

Date: 1/24/07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1466

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Koppelman Seconded By Rep. Heller

| Representatives | Yes | No | Representatives | Yes | No |
|-----------------|-----|----|-----------------|-----|----|
| Ch. DeKrey | ✓ | | Rep. Delmore | | ✓ |
| Rep. Klemin | ✓ | | Rep. Griffin | | ✓ |
| Rep. Boehning | ✓ | | Rep. Meyer | ✓ | |
| Rep. Charging | | | Rep. Onstad | | ✓ |
| Rep. Dahl | | | Rep. Wolf | | ✓ |
| Rep. Heller | ✓ | | | | |
| Rep. Kingsbury | ✓ | | | | |
| Rep. Koppelman | ✓ | | | | |
| Rep. Kretschmar | ✓ | | | | |
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Total (Yes) 8 No 4

Absent 2

Floor Assignment Rep. Koppelman

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1466: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS (8 YEAS, 4 NAYS, 2 ABSENT AND NOT VOTING). HB 1466 was placed on the Eleventh order on the calendar.

2007 SENATE JUDICIARY

HB 1466

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1466

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: March 13, 2007

Recorder Job Number: 4963

Committee Clerk Signature

Mark Solby

Minutes: Relating to the prohibition of the performance of abortions, except to save the life of the mother.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following committee work:

Rep. James Kerzman, Dist. #31 introduced the bill. Att. #1a

Sen. Fiebiger question if we put effective dates (meter 2:57) in other areas of the law and why would we do it here? The Rep. replied that he did not know if it was unique or not but this is based on model legislation. We did something similar with minimum wage. Sen. Fiebiger stated that not only does this require the Supreme Courts decisions, but our Attorney General has to decide if it is reasonably probable if the act would be upheld as constitutional. There are several different variables that have to happen before the thing can be in place. As a policy mater do we as a body want to put this on another group, i.e., the next Attorney General. Do we do this in other areas. The representative was not aware of it being done in other areas. And her referred to his two amendments – Att. 1b

Sen. Lyson (meter 5:15) stated, are we making the decision for a future legislative session, and if so, isn't that against policy? **Rep. Kerzman** replied that we are making a decision today as a law in the books that will take place for future legislation. They can change it. We are only setting a date for down the road that may never go into effect.

Sen. Feibiger questioned page 4, under civil actions, line 26- what you are stating in this is that, I can a consent form for the Doctor to do this, and then sue the doctor for what I gave them permission to do? Is this accurate?. **Rep. Kerzman** stated that you are probably correct.

Sen. Nething stated that (meter 7:03) that both sides will have equal time to speak but that he will limit it to 40 minutes for this hearing, due to other meetings on the agenda today.

Christopher Dodson, Executive Director ND Catholic Conference (meter 7:24) gave his testimony – Att. #2a, reviewed **Rep. Kerzman's** amendments and spoke of his flow chart – Att. 2b.

Sen. Fiebiger asked if an effective date would be good policy for something that may not happen to a person not yet elected? (meter 13:13) He replied that it is only a different approach, if in 1973 we did not repeal the law that was existing, the same thing would happen, this would be the law if the law were to go back. Since we repealed them at that time, this would put it back in place. Spoke to enacting a unconstitutional law that the court orders to be unconstitutional but is still in the books or doing it with a delayed date. You can not bind future legislatures in there legislative acts, but you can bind them on what is the law, and they have the right to change the law.

Sen. Fiebiger stated his concern (meter 15:36) of signing off on a law, that may change a law, we do not know what the world will be like at that time.

Stacy Pfiiger, Legislative Director for the ND Right to Life (meter 16:30) in support of the bill and are in agreement to the amendment. This bill creates a new chapter in the Century Code.

This gives us the opportunity to be proactive, stating that ND is a pro life state.

Sen. Neslon (meter 17:20) questioned **Rep. Kerzman's** comment of taking the section out of section 14, domestic relations, but I do not see it repealed? They had discussion of this.

Jaune Myidel, Concerned Women of America, (meter 18:00) spoke of membership and in support of the bill, stating several states are looking at this legislation and are in support of the amendments.

Tom Freier, ND Family Alliance (meter 19:23) spoke in support – Att. #3. If one more unborn life would be saved we have success.

Cole Schlecht, Student from Medina (meter 23:04) spoke in support of the bill. He spoke of how easy it is to take an unborn Child's life with an abortion and not realizing what is being done.

Mrs. Gary Zentz, Mother from Bismarck (meter 24:00) spoke of her history since 1973 testifying in support of Pro-life and the continuous fight to save lives from abortion. She referred to the raising of her 17 kids, several adopted, how some of the adopted children would not be here. We need pro-life legislation

Testimony in Opposition to the Bill:

Tim Stanley, Sr. Dir. of Gov. and Public Affairs for Planned Parenthood (meter 28:17) gave his testimony – Att. #4

Renee Stromme, ND Women's Network (meter 31:41) gave her testimony – Att. #5 and shared the testimony from Elizabeth A. Burns, MD MA – Att. #6

Tiffany Johnson, ND Women's Network, (meter 35:32) gave testimony in support of – Att. #7 spoke to the fact that women will suffer if this legislation passes.

Sen. Nelson questioned (meter 37:09) if in the definition, the first line, would that include birth control pills? The reply was "post" conception only.

Connie Hildebrand, Legislative Chair and Lobbyist for the **ND Chapter of National Association of Social Workers** (meter 38:46) spoke against the bill –

Att. #8 **ND Association of Social Workers ND Chapter**,

Att. #9 **League of Women Voters**, and

Att. #10 **American Association of University Women**.

Senator David Nething, Chairman closed the hearing.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1466

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: March 21, 2007

Recorder Job Number: 5361

Committee Clerk Signature

Maria L. Solby

Minutes: Relating to prohibition of the performance of abortions, except to save the life of the mother.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following committee work:

Sen. Nething opened with a review of the bill speaking of the amendment brought forth – Att.

!b, from 1/13.

Sen. Lyson made the motion to Do Pass Amendment – Att. #1b from 3/13 and **Sen. Olafson** seconded the motion.

Sen. Olafson (meter 2:24) stated that there were no exceptions for rape or incest. Sen. Feibiger states that he does not see it for the health of the mother. That is correct.

Sen. Nelson made a statement that a delayed effective date and the states attorneys having this ability is bad public policy. **Sen. Feibiger** agrees and they discussed this. If the law is overturned than let us bring a law out at that time. They spoke of “reasonable probable”, other types laws.

Sen. Nething, Sen. Lyson and Sen. Olafson were for the amendment and **Sen. Fiebiger, Sen. Marcellais, and Sen. Nelson** was against the amendment. The **motion** on the amendment **fails**.

Sen. Fiebiger made the motion to Do Not Pass HB 1466 and **Sen. Nelson** seconded the amendment.

Discussion **Sen. Fiebiger** spoke his opinion – Att. #1 (meter 8:00)

Sen. Lyson stated that he will vote against the motion for he felt that a bill like this should go to the floor with out committee's opinion.

Sen. Olafson stated that he had a problem with the bill- without the provision for rape or incest.

Sen. Nething, Sen. Lyson and Sen. Olafson was against the motion and **Sen. Fiebiger, Sen. Marcellais, and Sen. Nelson** were for the motion. The **motion** on the amendment **fails**.

Sen. Lyson made the motion: Without Committee Recommendation on HB 1466 and **Sen. Olafson** seconded the motion. All members were in favor and the motion passes.

Carrier: **Sen. Nething**

Senator David Nething, Chairman closed the hearing.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1466

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 12.1-31 of the North Dakota Century Code, relating to the prohibition of the performance of abortions; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 12.1-31 of the North Dakota Century Code is created and enacted as follows:

Abortion - Affirmative defenses.

1. As used in this section:
 - a. "Abortion" means the use or prescription of any substance, device, instrument, medicine, or drug to intentionally terminate the pregnancy of an individual known to be pregnant. The term does not include an act made with the intent to increase the probability of a live birth; preserve the life or health of a child after live birth; or remove a dead, unborn child who died as a result of a spontaneous miscarriage, an accidental trauma, or a criminal assault upon the pregnant female or her unborn child.
 - b. "Physician" means an individual licensed to practice medicine under chapter 43-17.
 - c. "Professional judgment" means a medical judgment that would be made by a reasonably prudent physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.
2. It is a class C felony for a person, other than the pregnant female upon whom the abortion was performed, to perform an abortion.
3. The following are affirmative defenses under this section:
 - a. That the abortion was necessary in professional judgment and was intended to prevent the death of the pregnant female.
 - b. That the individual was acting within the scope of that individual's regulated profession and under the direction of or at the direction of a physician.

SECTION 2. EFFECTIVE DATE. This Act becomes effective on the date the attorney general certifies to the secretary of state and the legislative council that it is reasonably probable that this Act would be upheld as constitutional or that a court has determined the Act is enforceable based upon an action for declaratory judgment initiated by the attorney general or by a state's attorney."

Renumber accordingly

Date: 3/21/07
Roll Call Vote # 2 of 3

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1466

Senate _____ Judiciary _____ Committee _____

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Sen. Flebiger Seconded By Sen. Nelson

| Senators | Yes | No | Senators | Yes | No |
|--------------|-----|----|-----------------|-----|----|
| Sen. Nething | | ✓ | Sen. Flebiger | ✓ | |
| Sen. Lyson | | ✓ | Sen. Marcellais | ✓ | |
| Sen. Olafson | | ✓ | Sen. Nelson | ✓ | |
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Total Yes 3 No 3

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1466: Judiciary Committee (Sen. Nething, Chairman) recommends BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1466 was placed on the Fourteenth order on the calendar.

2007 HOUSE JUDICIARY

CONFERENCE COMMITTEE

HB 1466

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1466

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 4/16/07

Recorder Job Number: 6027

Committee Clerk Signature

Penrose

Minutes:

Rep. Koppelman: Opened the Conference Committee. All were present. We'll let the Senate tell us why they amended the bill as they did.

Sen. Nething: After the hearing when we brought the bill up, Rep. Kerzman brought in an amendment and we were unable to get the amendment on a bill, we're a 3-3 committee. We were unable to do that. Ultimately we ended up sending it to the Floor without recommendation and we did get a majority vote for that. So we put it on the calendar. Sen. Erbele offered a similar amendment and as I recall it was put on the bill and then there was a Floor amendment that was offered, which ultimately became the bill and that's what you have in front of us. It did come from the Floor and we never had any hearing on this amendment. We never had it presented it at all, so we really know very little about it other than the facts as I have described them to you. But it is pretty straightforward. It just requires that the AG does the notification and the notification goes to the Legislative Council and if the Supreme Court issues a statement allowing an assembly to impose restrictions, which I would expect under Title 14, then the Legislative Council would issue a call for the assembly to convene, if there are at least three natural days available under the constitution to allow the assembly to enact

legislation. There are several factors there that are pretty iffy. That's the history of where it came from.

Rep. Koppelman: I've got some concerns about the Senate amendment. The first is, you referenced it Senator, the idea of the 3 day window. I guess I haven't heard of that in terms of a parameter for calling a special session.

Sen. Nething: You have to have 3 days available of the regular days of the regular 80 day session. It would have to be a special session. At any rate, Legislative Council would have to make a call. Say, if we finished up on the 78th day, there aren't three days left so that would make it null and void. There's no way to call a special session.

Rep. Onstad: My understanding is if there are three legislative days, it would not be a special session, you'd still have three days to act within that 80 day confinement. Am I wrong on that.

Sen. Nething: No, three days is usually what it takes in order to get a bill out and act on it, if everything goes well.

Rep. Onstad: If the three days aren't there, you'd probably just wait until the next session.

Sen. Nething: That's right.

Rep. Onstad: To complete this.

Sen. Nething: As I understand it, yes, which in essence, would be to do nothing.

Rep. Koppelman: Do you see anything in this bill, as it stands in the Senate, does it do anything. Is there anything in the bill that couldn't be done under normal procedures right now. What's the point of this, if legislative council determined during the interim that whatever parameters outlined here were the case and wanted to call a special session it could do so.

Sen. Nething: I think the point of this was to give people an option to vote on it. Perhaps we should distribute to you the amendment that we actually wanted to put on the bill.

Rep. Kretschmar: Is it .0109, Sen. Erbele's amendment.

Rep. Koppelman: This was the one attached by the committee?

Sen. Nething: No, we didn't have the votes to get it out of committee.

Rep. Koppelman: These were close votes on the Floor?

Sen. Nething: I don't remember what the vote was.

Sen. Erbele: The one was approved...

Rep. Koppelman: So they were both approved.

Sen. Nething: Yes, the one before you is the one we placed in the bill.

Rep. Koppelman: Can you walk us through the amendment.

Sen. Erbele: The original bill was longer, this was shortened. It did move it from civil section of code to the criminal section of the code. We cleaned up some of the language and put in some exceptions to the original bill in section 3, intended to prevent death of mother, rape, incest, we tried to figure out a way of who should trigger it. At one point, it was just strictly the AG, we thought to avoid calling a special session, but still we knew this was an elected body, so we looked at Legislative Council, which is a group of elected officials made up of senators and representatives and work with the AG's office, who might think of bringing the whole assembly together and could be done in the off season, you might not necessarily wait until the next legislative session.

Sen. Nething: The reason that it was drafted to go to the legislative council as opposed to the budget section, etc. was that legislative council could actually have more done with it during the interim, than the total board, since the other committees have limited jurisdiction.

Rep. Koppelman: As I understand the makeup of the bill, this isn't asking the AG as in the case of the original House bill, or the legislative council, upon recommendation of the AG, to legislate. Instead this is strictly an effective date of when the legislation could be acted on

based upon court decisions. Which is something we can't control. Is that correct in your opinion.

Sen. Nething: Yes.

Rep. Onstad: This deals with just strictly section 2 that we've discussed at this point.

Rep. Koppelman: You're talking about Sen. Erbele's amendment.

Rep. Onstad: Yes, reasonably probable, how is that defined and interpreted at that point. That this act would be held and that reasonably probable is based on Roe v. Wade, it doesn't state that; what changes need to be made or how to define reasonably probable.

Rep. Koppelman: It seems that reasonably probable would be as it's written here in the judgment and legal opinion of the AG coupled with the judgment of the legislative council. The AG would be presenting facts or opinion as the chief law enforcement officer of the state, and the legislative council would be responding to the governing board of the legislature while it's not in session. It's based upon the legal opinion of the chief law enforcement officer of ND, I assume based upon court action of whatever might precipitate leading up to that, which of course, none of us can predict.

Rep. Onstad: Any kind of decisions or anything could be considered part of this, or are we going to direct this to something specific to Roe vs. Wade.

Rep. Koppelman: As I read the amendment, or as I read the original bill, I don't think it specifically mentions any previous court decision, and I don't think it would be wise to do that in legislation, so I think the intent of the bill and as I read Sen. Erbele's suggested amendment, the intent of that, it seems to me is to allow discretion based upon whatever the future might bring, which none of us can predict. So I would assume that whatever court decision might come down the pike, that the AG believed would make this act enforceable, he or she would

then notify our Legislative Council under what Sen. Erbele has suggested and LC would move by motion, based upon that recommendation.

Rep. Onstad: Using that same argument, let's weigh the options of what came out of the Senate vs. Senators' amendments. You used the words, referring to what came out of the Senate, that would be the final version, well does it really need anything. I'm going to take your same argument and apply it to here, with reasonably probable this act and so on, does this...this becomes broad..the first one is broad, but this one is also broad, does it really do what the intent is, that I think the original sponsors are trying to suggest here.

Rep. Koppelman: I think the original prime sponsor is in the room, you could direct that question to him, that would be a matter of opinion. But to answer your question, my concern about what I'm reading in the brief version that the Senate adopted second, versus what we are looking at, which they adopted first, is that there are several differences. One difference is, and my concern and statement about doing something, really hinges on the point that the legislative council, we passed a bill several sessions ago, and going way back, it took the Governor calling the legislature into session for a special session. We passed legislation sometime back, that allows the legislature to call itself into special session. So the legislature already has the support. So my point about this, is if that's true and we're going to hinge this on the legislature calling itself back into session, it can do that anytime it chooses anyway. The difference I see between the two and I'm not an attorney. I'm just looking at this as a legislature, but the difference I see in the two versions and I invite the attorneys to comment on this, is that the version that the Senate adopted, Senator Potter's version, as I read it, basically says the legislature ought to do what it can already do. So that's why I'm saying I'm not sure if it accomplishes anything. The version that Sen. Erbele crafted, I see a little bit of difference in that it seems to track more along the lines, with what we looked at in the House Judiciary

Committee with the original bill, which was basically, we as the Legislative body are crafting public policy, we are realistic enough to recognize that because of court decisions, we may or may not be able to enforce that public policy right now, but if that ever changes, this is what we want the public policy in ND to be, and the way we allow that change to happen would be for this version for the AG to conclude that, make a recommendation to Legislative Council and the LC in essence would be saying that I think we can now enforce the law that we passed 5 months, or 5 years ago. So the law would be on the books but it wouldn't be enforced until this happens.

Sen. Nething: I think that's correct. As I understand it, the AG would have to make that determination. Some act would have to occur, either Congress or courts, are the two places where this could occur, that would indicate to the AG that the act created by HB 1466 would be and make a recommendation. Once the AG makes that determination because of another set of events that has occurred, then he would notify LC. Then it's up to LC, if we are in session, of course, we can certainly override that and then the legislature would take care of it. But assuming we're out of session, they would then have to decide whether or not they agreed with the recommendation of the AG. Then the act would become activated, from that point on until such time as it would be challenged or changed.

Rep. Koppelman: I agree with that. Something you just said raised a thought in my mind. I'm wondering if it is the wish of the conference committee to eventually adopt the version that Sen. Erbele had, your scenario just raised a question if there ought to be some language added that would say, an effective date, where it says that this act becomes effective on the date that the LC approved by motion. You made the comment, assuming we're not in session.

It doesn't say that, and maybe we should say that LC, or if in session, the Legislative

assembly, to kind of clarify that, that the intent is that the legislature should do this if they're not.

Sen. Nething: I don't think you need that, because I know the legislature can put in its own bill to do that.

Rep. Koppelman: So it's probably unnecessary.

Sen. Nething: We can change any law at any time.

Rep. Kretschmar: We don't have a copy of the bill that the House passed.

Rep. Koppelman: We will adjourn for now and take this up at the next meeting.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1466

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 4/17/07

Recorder Job Number: 6071

Committee Clerk Signature

D Penrose

Minutes:

Rep. Koppelman: We will open the conference committee on HB 1466. Clerk call roll. All present.

Sen. Erbele: The amendment that I offered on the Senate floor that was accepted but not voted on, I think goes a long way in accomplishing what we want to do, and addressing some other things that were in the original bill. The whole bill creates some difficulty for some people but I think we have a way of making a statement that we are pro-life here in this state. The thing that I do struggle with and I do serve on the pro-life caucus that I co-chair with Rep. Kerzman, and rather than just doing what is a political-type statement, I think we really need to create a greater effort in what we do to curb abortion so that it isn't an attractive choice, that it be a last choice as an alternative. I know that the House dealt with a bill 2181, dealing with pre-natal care which I put in similar language in this amendment. As we take a look at what we want to make as our statement for the state of ND, that we are a pro-life state and in case something would happen at the federal level, that the AG and LC could determine that we have this law in place. I think in moving the agenda choosing life forward, I would like to offer an amendment that was similar to the 2181, that would allow an under-aged adolescent to seek prenatal care (see attached amendment .0112 dated 4/17/07). The first page is

essentially is exactly what was out there. In subsection 3 (a) that the abortion was necessary in professional judgment and was intended to prevent the death of the pregnant female, (b) that the abortion was to terminate a pregnancy that resulted from gross sexual imposition, sexual imposition, sexual abuse of a ward, or incest, as those offenses defined in chapter 12; (c) that the individual was acting within the scope of that individual's regulated profession and under the direction of or at the direction of a physician. That is the form that was adopted by the Senate. Section 2 is in the context of 2181 and it falls under a section that has already been on the books since the 1970's, regarding minors with treatment of sexually transmitted disease, drug abuse and alcoholism. That was in place, minors could do that dating back to the '70s. So in that section we added pregnancy related care, and that the person aged 14 years or older. There is an age limit in there because that conforms to the rest of the statute, may contract for an receive examination, care, or treatment for sexually transmitted disease, alcoholism, drug abuse, or pregnancy related care without permission, authority or consent of a parent or guardian; I guess you can read on there through the rest. If we are really serious about making a pro-life statement then let's really do something that may actually have a chance of actually saving a life, whether or not the courts are going to do something during the biennium is probably highly unlikely, so we've made a political statement that we are a pro-life state, this is where we stand. In the meantime, let's do something that might actually have a potential to save a life. So many times when young people are scared or frightened, they prolong the time to get pre-natal care and if there is difficulty, these are the ones that really cost us money. If we can get early intervention that would help a lot. As we read subsection 3, a physician shall encourage the minor to involve her parents or guardian. A physician or other health care professional who provides pregnancy-related care to a minor under this section may inform the minor's parent or guardian of any pregnancy-related care given or

needed if; (a) in the judgment of the physician or health care professional: that failure to inform the parent or guardian would seriously jeopardize the health of the minor or unborn child; or informing the parent or guardian would benefit the health of the minor or unborn child. But before disclosure, physician or health care professional informs the minor of the intent to disclose and the reasons for the disclosure. So they would actually have to sit down and say I think I'm going to tell your parents just what...for your benefit or the benefit of the child. Then in section 3, it refers to the effective date of section 1.

Rep. Koppelman: I'll just comment quickly on my thoughts. I appreciate your efforts. I am concerned, however, on a number of fronts. First of all, as we all know, the purpose of a conference committee is to try to work out the differences between the House and Senate version of the legislation at hand. While perhaps some of your proposed amendment might not do that, section 2 is apparently another bill that we defeated in the House, that the Conference Committee is being asked to consider amending into this bill and that creates another problem. In the past, our Chamber, at least, has looked rather dimly on that and I think it would create a great deal of additional opposition and I realize your position and I'm not, and I don't know how much time I'm interested in having us give to debate a failed bill. I do differ with some of your conclusions. I understand and respect your position, but I know that a lot of folks in the House who consider themselves pro-life opposed the bill in question, and I think that's one of the reasons it did not pass, some who consider themselves pro-life supported it, but it does create more division on that issue. So for that reason, I don't think I can support section 2 at least, I could certainly consider the other two sections if they are proposed as a stand alone. That's my thought, and I think from the standpoint of the House and the Conference Committee keeping its deliberation germane to our task, I would prefer that we focus on the question at hand.

Sen. Erbele: I understand your comment saying that the Chamber tends to view dimly on that, I think both sides give lip service to that, but I don't know.

Rep. Koppelman: It certainly has occurred, there's no question about that.

Sen. Erbele: How dim that light is I don't know.

Sen. Nething: Procedurally, would you like a motion so that we can discuss this, or do you want more discussion now.

Rep. Koppelman: A motion would certainly be in order, if a motion is made and seconded we could discuss it.

Rep. Onstad: When you talk about section 2, we're talking about the health of the mother, so that takes me to page 1, under section 1, paragraph 3, prevention of death of the pregnant female, is that not really concern for the health of the mother.

Rep. Koppelman: You're talking about item c...

Rep. Onstad: Number 3a, we're really talking about the health of the mother in that instance are we not.

Rep. Koppelman: I don't think, if you're asking me, I would say the health of the mother, you're talking about the life of the mother.

Rep. Onstad: Is that not the health of the mother.

Rep. Koppelman: Well, life would certainly be included in the discussion of health, it's a severe...I might do something that might put my health in danger...

Rep. Onstad: Let's say someone is in chemotherapy and finds themselves pregnant, is that, isn't the decision made, going to be made for the health of the mother, and that's a discussion for everybody, it just seems to me that it's the health of the mother and not necessarily the health of a pregnant female.

Rep. Koppelman: How would you define the term "health".

Rep. Onstad: Well, in section 2 you are considering, obviously you must be in a situation that occurs and just like I mentioned, a person who is receiving chemotherapy and finds themselves pregnant. Do they sustain...do they stop the chemo at that point...and now you're risking the health of the mother, which could end up with the death of the mother and I do not know how you can separate, if you're making the statement if you're concerned about the death of the mother, then it seems to me that you're concerned about the health of the mother, and I wonder if that shouldn't be put in there.

Rep. Koppelman: We're sort of debating an issue that I don't think is germane to the discussion on the amendment or perhaps even the bill as the bill passed the House, dealt with the life of the mother, it did not deal with the health of the mother, did not deal with some of the other exceptions that were in Sen. Erbele's proposed amendment even on the Senate floor.

Rep. Onstad: We can, in one of the sections is part of this, and the amendment is forward, it's as presented as an amendment, should be discussed and the second question that I have is when you consider, I still don't have a clear distinction with reasonable probable means, an AG could determine at any time, even current or tomorrow could feel that this is constitutional, so they could at any time.

Rep. Koppelman: I think that point is particularly true of the version that the Senate passed, because it says that if the US Supreme Court issues a decision that would allow the legislative assembly to impose restrictions on abortion which are more restrictive than those contained in Title 14, it sets forth a course of action. It seems to me that any, theoretically any decisions the Supreme Court would render on the subject of abortion could trigger a special session of the legislature under the Senate's version. I think it's maybe a little troublesome.

Rep. Onstad: I raised the question because I want everybody to be a part of that discuss, what's really meant in that language.

Rep. Koppelman: I don't know if you are just raising the question for rhetorical question purposes or if you want discussion on it. I guess if you want to discuss it, I would have a couple thoughts. One, reasonable, those kinds of terms, are used throughout the law throughout our statutes and those standards are used both in civil and criminal law. I think they are commonplace in statutes in ND and most other states in our nation. I suppose we could debate what they mean and obviously there is some flexibility to what they mean, that's the intent. As far as the question of health of the mother, I think that's a wide open term that, I don't know if you ever had a surgery, but if you or any of your family members have ever had surgery, and are sitting with the doctor who is about to perform that surgery or a nurse, you are going to be told that there are risks to surgery. There is a health risk to any surgery. So if you are suggesting that a bill such as this should have an exception for the health of the mother, anything, even the abortion itself could endanger the health of the mother, so you could use that argument to say that they should never be performed, because it's surgery. I don't know if we want to get into that debate. I don't know if that's real productive and that's not part of anything that I've seen proposed in the House or Senate, in either version. I certainly respect your right to raise the question and we can talk about it, but I don't think it's really an issue that we, without a hearing, without some medical expertise, etc. can really grapple with in the conference committee.

Rep. Onstad: Just to follow up, you make the term being broad as health of the mother, reasonably probable is broad too.

Rep. Koppelman: It is.

Rep. Onstad: Just for that point of clarity, most statements are broad.

Rep. Koppelman: So is professional judgment, and that's why I think, that portion of Sen. Erbele's proposed amendment that says that the abortion was necessary in professional

judgment and was intended to prevent the death of the pregnant female, certainly calls for medical judgment on the part of the doctor or medical personnel, and yes you're right, that's subjective to some extent. I don't know of any way to write it in a way that's not, that doesn't have some degree of subjectivity. Points duly noted. I appreciate your sharing those thoughts.

Rep. Onstad: I move the amendments .0112.

Rep. Koppelman: The motion would be that the Senate recede from their amendment and the conference committee amend with amendment .0112 presented by Sen. Erbele.

Sen. Nething: Second.

Sen. Erbele: In light of your earlier comments about section 2, I'm not offering it as a means to cram something down their throats, and I don't think it was largely defeated in the House, a 46-46 tie is hardly a stunning defeat. I think sometimes in the way the bill is presented and what information is given, and who gets a hold of it, and who has the right spin on it can alter the course of it, and I think this needs to be aired again and given the opportunity to go forward.

Rep. Koppelman: I appreciate your thoughts. My concern is that it puts at cross purposes many people who might be sympathetic to the rest of the bill and are going to have problems with that section, particularly along the lines of parental rights, and I think that's the resistance we will find in the House. I think we have all stated our thoughts both ways on that. Further discussion on the motion.

Sen. Nething: I don't disagree with your last comment, but on the other hand, there may be other people that say, well this is kind of what I was looking for, now I can go for it. We don't know that until it is up. I don't see it as a problem in trying to resolve the conflict between the two Houses.

Rep. Koppelman: Well, not only does it considerably weaken the bill the House passed that we're here to debate which could put that in jeopardy, it also injects another bill that was defeated, even though not by a lot. That's my concern.

Sen. Erbele: I would say that if we are truly about making a pro-life statement, both sections of the amendment apply to do that. One section says this will be the law if the Supreme Court does such and such and this will be the law for the state of ND, as far as our abortion laws, but then we're also saying what we are going to do to enhance the choice for life.

Rep. Koppelman: I do respect your opinion on that, I disagree with it. I don't think that we should be debating section 2, which is really another bill that's been dealt with in this legislative session. I have not seen evidence that persuades me that that defeated bill actually would have saved lives or not. I believe that it is clear, that there is absolutely no question that it would have undermined parental authority and I think that's the concern of some. There is the argument that it may have saved a life. I guess you can take that position, some believe that is true, and go to court with that.

Sen. Erbele: The four sponsors on the bill do support the bill.

Rep. Koppelman: I know there are legislators that did, I am certainly aware of that. Further discussion. Clerk call roll.

5 YES 1 NO 0 ABSENT

SENATE RECEDE FROM SENATE AMENDMENTS AND AMEND WITH .0112

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1466

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 4/20/07

Recorder Job Number: 6185

Committee Clerk Signature *Almrose*

Minutes:

Rep. Koppelman: We will open the conference committee on HB 1466. Roll call. All present. I understand that something's been passed out, as the committee is aware, the conference committee report adopted previously, was rejected by the House. Would the Senate care to explain the amendment.

Sen. Nething: We've already gone through the language of it.

Sen. Erbele: We had an amendment here that we had before in section 2.

Rep. Koppelman: I think we're all familiar then with what it does and the essential changes if I'm correct then, to the House bill, would be that exception for rape and incest would be added. I believe the trigger mechanism is a bit different in that it involves both the Attorney General and the Legislative Council vs. only the AG, which was in the House version. Are those essentially the changes.

Sen. Nething: Yes. I move the amendment.

Rep. Kretschmar: Second.

Rep. Onstad: On the part of the professional judgment in the situation, using the same example, a mother is going to chemotherapy and finds herself pregnant, what is going to happen.

Rep. Koppelman: I'm not a physician, so I can't really...

Rep. Onstad: What's going to happen.

Rep. Koppelman: I would suspect that it would have to do with the professional judgment mentioned in what is being conferred between the doctor and the patient.

Rep. Onstad: It doesn't get to the line where it's so specific as death of the pregnant female, it could or could not. My question is, you put yourself in that situation. What would you do.

Rep. Koppelman: You're asking me personally.

Rep. Onstad: Yes.

Rep. Koppelman: I can tell you, but I don't think that is necessarily what we're dealing with in the bill. The question you're talking about is 1(c), it's a definition of professional judgment, and it says that professional judgment means a medical judgment that would be made by a reasonably prudent physician who is knowledgeable about the case and the treatment possibilities, with respect to the medical conditions involved. Now as I read that, it seems to me that's a pretty broad definition, so it actually gives a great deal of leeway, certainly far more than, with the additional exceptions that we have here, what the House bill that was passed.

Rep. Onstad: I want to go down to paragraph 3, section a; it was intended to prevent the death of the pregnant female. I just want to give that one situation. It's probably not going to prevent, could or could not, deal with the death of that, but it's so specific. That's my question for everybody here, put your wife or any female in that situation, and what do you do. It might not prevent the death of that, so there it is. You put that situation out there, professional judgment or not, that language in there is so specific in there that it's only going to deal with that portion. We don't know, chemotherapy, we don't know what is going to happen.

Depending on the situation, the odds could be 50/50. My point is that I think we have to consider the health of the mother, because that particular situation deals with the health of the

mother and you're going to have to make that decision. I think it's easy for us to sit here and say that's professional judgment. Put yourself in that position. It wouldn't be so easy just to say this is what I would do. I really think we should look at some kind of consideration there, something we could do to change that language a little bit. Currently the way it is, to me it's not acceptable, and that's only one situation and you can line up a lot of them there where it's going to be detrimental as it goes. I just want to pose that discussion out here before we vote.

Rep. Koppelman: I appreciate your comments. I think if we get into the area of health of the mother, it is a much broader and much less defined area, so I think either kind of wording might cause problems for people under varying perspectives on the issue.

Rep. Onstad: We don't have to make those so specific in those situations. There's got to be some room here to wiggle on that particular point right there.

Rep. Koppelman: I believe that the language, professional judgment and the definition of it, gives exactly that, the wiggle room you are talking about.

Rep. Onstad: I disagree with you.

Rep. Kretschmar: I would like to know, when the Senate prepared this amendment, did you consider the health situation at all, detrimental to the health of the mother.

Rep. Koppelman: That's one thing that is problematic for many people who consider themselves pro-life. Health, for example, could mean that someone comes to a physician for an abortion and the physician says, I think for your emotional health this is the best thing for you. It seems to me that that's a loophole that you could drive a truck through. I think that's why people in the pro-life side of this equation have difficulty with that kind of term.

Sen. Erbele: Just for clarification, what was the vote.

Rep. Koppelman: I don't remember the exact vote, but I think it was 60 something to 20 something in the House, so it was overwhelming approval of the original bill, which was much stronger than what we're considering here as a compromise.

Rep. Onstad: I don't think it dealt with the death of the female, rape or incest. I don't think they were included.

Rep. Koppelman: Rape and incest were not, but the life of the mother was in the House version. Roll call vote.

5 YES 1 NO 0 ABSENT

SENATE RECEDE FROM SENATE AMENDMENTS AND ADOPT AMENDMENTS

70592.0111 Title .0500.

April 17, 2007

Conference Committee Amendments to HB 1466 (70592.0112) - 04/17/2007

That the Senate recede from its amendments as printed on pages 1466 and 1467 of the House Journal and page 1288 of the Senate Journal and that House Bill No. 1466 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 12.1-31 of the North Dakota Century Code, relating to the prohibition of the performance of abortions; to amend and reenact section 14-10-17 of the North Dakota Century Code, relating to consent of a minor; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 12.1-31 of the North Dakota Century Code is created and enacted as follows:

Abortion - Affirmative defenses.

1. As used in this section:

- a. "Abortion" means the use or prescription of any substance, device, instrument, medicine, or drug to intentionally terminate the pregnancy of an individual known to be pregnant. The term does not include an act made with the intent to increase the probability of a live birth; preserve the life or health of a child after live birth; or remove a dead, unborn child who died as a result of a spontaneous miscarriage, an accidental trauma, or a criminal assault upon the pregnant female or her unborn child.
- b. "Physician" means an individual licensed to practice medicine under chapter 43-17.
- c. "Professional judgment" means a medical judgment that would be made by a reasonably prudent physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

2. It is a class C felony for a person, other than the pregnant female upon whom the abortion was performed, to perform an abortion.

3. The following are affirmative defenses under this section:

- a. That the abortion was necessary in professional judgment and was intended to prevent the death of the pregnant female.
- b. That the abortion was to terminate a pregnancy that resulted from gross sexual imposition, sexual imposition, sexual abuse of a ward, or incest, as those offenses are defined in chapter 12.1-20.
- c. That the individual was acting within the scope of that individual's regulated profession and under the direction of or at the direction of a physician.

SECTION 2. AMENDMENT. Section 14-10-17 of the North Dakota Century Code is amended and reenacted as follows:

14-10-17. Minors - Treatment for sexually transmitted disease - Drug abuse - Alcoholism - Pregnancy-related care.

1. Any person of the age of fourteen years or older may contract for and receive examination, care, or treatment for sexually transmitted disease, alcoholism, ~~or~~ drug abuse, or pregnancy-related care without permission, authority, or consent of a parent or guardian.
2. For purposes of this section, "pregnancy-related care" means pregnancy testing, prenatal care, and pain management related to pregnancy. This section does not authorize a minor to consent to abortion or otherwise supersede the requirements of chapter 14-02.1. Notwithstanding subsection 1, a physician or other health care professional may not be compelled against the physician's or health care professional's best judgment to provide pregnancy-related care under this section.
3. If a minor requests pregnancy-related care under this section, the physician or health care professional shall encourage the minor to involve her parents or guardian. A physician or other health care professional who provides pregnancy-related care to a minor under this section may inform the minor's parent or guardian of any pregnancy-related care given or needed if:
 - a. In the judgment of the physician or other health care professional:
 - (1) Failure to inform the parent or guardian would seriously jeopardize the health of the minor or her unborn child; or
 - (2) Informing the parent or guardian would benefit the health of the minor or her unborn child; and
 - b. Before the disclosure, the physician or health care professional informs the minor of the intent to disclose and the reasons for the disclosure.

SECTION 3. EFFECTIVE DATE. Section 1 of this Act becomes effective on the date the legislative council approves by motion the recommendation of the attorney general to the legislative council that it is reasonably probable that Section 1 of this Act would be upheld as constitutional."

Renumber accordingly

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

Bill Number 1466 (, as (re)engrossed): Date: 4-17-07

Your Conference Committee House Jud

For the Senate:

For the House:

| | YES / NO | | | YES / NO | |
|-------------------|-------------------------------------|--------------------------|-------------------|-------------------------------------|-------------------------------------|
| <u>Nothing</u> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Koppelman</u> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <u>Erbele</u> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Kretschmar</u> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <u>Marcellais</u> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Onstad</u> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

recommends that the SENATE/HOUSE (ACCEDE to) (RECEDE from)

the Senate/House amendments on (SJ/HJ) page(s) 1466 -- 1467

 , and place on the Seventh order.

, adopt (further) amendments as follows, and place 1466 on the Seventh order:

 , having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) 1466 was placed on the Seventh order of business on the calendar.

DATE: 4/17/07

CARRIER: Koppelman

| |
|---|
| LC NO. <u>70592.0112</u> of amendment |
| LC NO. <u> </u> of engrossment |
| Emergency clause added or deleted |
| Statement of purpose of amendment |

MOTION MADE BY: Onstad

SECONDED BY: Nothing

VOTE COUNT 5 YES 1 NO 0 ABSENT

Revised 4/1/05

DPenno

REPORT OF CONFERENCE COMMITTEE

HB 1466: Your conference committee (Sens. Nething, Erbele, Marcellais and Reps. Koppelman, Kretschmar, Onstad) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1466-1467, adopt amendments as follows, and place HB 1466 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1466 and 1467 of the House Journal and page 1288 of the Senate Journal and that House Bill No. 1466 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 12.1-31 of the North Dakota Century Code, relating to the prohibition of the performance of abortions; to amend and reenact section 14-10-17 of the North Dakota Century Code, relating to consent of a minor; to provide a penalty; and to provide an effective date.

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- b. "Physician" means an individual licensed to practice medicine under chapter 43-17.
- c. "Professional judgment" means a medical judgment that would be made by a reasonably prudent physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

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- b. That the abortion was to terminate a pregnancy that resulted from gross sexual imposition, sexual imposition, sexual abuse of a ward, or incest, as those offenses are defined in chapter 12.1-20.
- c. That the individual was acting within the scope of that individual's regulated profession and under the direction of or at the direction of a physician.

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1. Any person of the age of fourteen years or older may contract for and receive examination, care, or treatment for sexually transmitted disease, alcoholism, ~~or~~ drug abuse, or pregnancy-related care without permission, authority, or consent of a parent or guardian.
2. For purposes of this section, "pregnancy-related care" means pregnancy testing, prenatal care, and pain management related to pregnancy. This section does not authorize a minor to consent to abortion or otherwise supersede the requirements of chapter 14-02.1. Notwithstanding subsection 1, a physician or other health care professional may not be compelled against the physician's or health care professional's best judgment to provide pregnancy-related care under this section.
3. If a minor requests pregnancy-related care under this section, the physician or health care professional shall encourage the minor to involve her parents or guardian. A physician or other health care professional who provides pregnancy-related care to a minor under this section may inform the minor's parent or guardian of any pregnancy-related care given or needed if:
 - a. In the judgment of the physician or other health care professional:
 - (1) Failure to inform the parent or guardian would seriously jeopardize the health of the minor or her unborn child; or
 - (2) Informing the parent or guardian would benefit the health of the minor or her unborn child; and
 - b. Before the disclosure, the physician or health care professional informs the minor of the intent to disclose and the reasons for the disclosure.

SECTION 3. EFFECTIVE DATE. Section 1 of this Act becomes effective on the date the legislative council approves by motion the recommendation of the attorney general to the legislative council that it is reasonably probable that Section 1 of this Act would be upheld as constitutional."

Renumber accordingly

HB 1466 was placed on the Seventh order of business on the calendar.

April 13, 2007

VR
4/20/07
1082

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1466

That the Senate recede from its amendments as printed on pages 1466 and 1467 of the House Journal and page 1288 of the Senate Journal and that House Bill No. 1466 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 12.1-31 of the North Dakota Century Code, relating to the prohibition of the performance of abortions; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 12.1-31 of the North Dakota Century Code is created and enacted as follows:

Abortion - Affirmative defenses.

1. As used in this section:
 - a. "Abortion" means the use or prescription of any substance, device, instrument, medicine, or drug to intentionally terminate the pregnancy of an individual known to be pregnant. The term does not include an act made with the intent to increase the probability of a live birth; preserve the life or health of a child after live birth; or remove a dead, unborn child who died as a result of a spontaneous miscarriage, an accidental trauma, or a criminal assault upon the pregnant female or her unborn child.
 - b. "Physician" means an individual licensed to practice medicine under chapter 43-17.
 - c. "Professional judgment" means a medical judgment that would be made by a reasonably prudent physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.
2. It is a class C felony for a person, other than the pregnant female upon whom the abortion was performed, to perform an abortion.
3. The following are affirmative defenses under this section:
 - a. That the abortion was necessary in professional judgment and was intended to prevent the death of the pregnant female.
 - b. That the abortion was to terminate a pregnancy that resulted from gross sexual imposition, sexual imposition, sexual abuse of a ward, or incest, as those offenses are defined in chapter 12.1-20.
 - c. That the individual was acting within the scope of that individual's regulated profession and under the direction of or at the direction of a physician.

2 of 2

SECTION 2. EFFECTIVE DATE. This Act becomes effective on the date the legislative council approves by motion the recommendation of the attorney general to the legislative council that it is reasonably probable that this Act would be upheld as constitutional."

Renumber accordingly

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

Bill Number 1466 (, as (re)engrossed): Date: 4/20/07

Your Conference Committee House Judiciary

| | For the Senate: | | For the House: | |
|--------------|-----------------|----|----------------|----|
| | YES | NO | YES | NO |
| Sen. Nething | ✓ | | Rep. Koppelman | ✓ |
| Erbele | ✓ | | Kretschmar | ✓ |
| Marcellais | ✓ | | Onstad | ✓ |

recommends that the (SENATE) (HOUSE) (ACCEDE to) (RECEDE) from)
the (Senate) (House) amendments on (S/HJ) page(s) 1466 - 1467

- , and place _____ on the Seventh order.
- , adopt (further) amendments as follows, and place 1466 on the Seventh order:
- , having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) 1466 was placed on the Seventh order of business on the calendar.

DATE: 4/20/07
CARRIER: _____

| |
|---------------------------------------|
| LC NO. <u>70592.0111</u> of amendment |
| <u>.0500</u> |
| LC NO. _____ of engrossment |
| Emergency clause added or deleted |
| Statement of purpose of amendment |

MOTION MADE BY: Sen. Nething

SECONDED BY: Rep. Kretschmar

VOTE COUNT 5 YES 1 NO 0 ABSENT

REPORT OF CONFERENCE COMMITTEE

HB 1466: Your conference committee (Sens. Nething, Erbele, Marcellais and Reps. Koppelman, Kretschmar, Onstad) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1466-1467, adopt amendments as follows, and place HB 1466 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1466 and 1467 of the House Journal and page 1288 of the Senate Journal and that House Bill No. 1466 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 12.1-31 of the North Dakota Century Code, relating to the prohibition of the performance of abortions; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 12.1-31 of the North Dakota Century Code is created and enacted as follows:

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1. As used in this section:

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- b. "Physician" means an individual licensed to practice medicine under chapter 43-17.**
- c. "Professional judgment" means a medical judgment that would be made by a reasonably prudent physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.**

2. It is a class C felony for a person, other than the pregnant female upon whom the abortion was performed, to perform an abortion.

3. The following are affirmative defenses under this section:

- a. That the abortion was necessary in professional judgment and was intended to prevent the death of the pregnant female.**
- b. That the abortion was to terminate a pregnancy that resulted from gross sexual imposition, sexual imposition, sexual abuse of a ward, or incest, as those offenses are defined in chapter 12.1-20.**
- c. That the individual was acting within the scope of that individual's regulated profession and under the direction of or at the direction of a physician.**

SECTION 2. EFFECTIVE DATE. This Act becomes effective on the date the legislative council approves by motion the recommendation of the attorney general to the legislative council that it is reasonably probable that this Act would be upheld as constitutional."

Renumber accordingly

HB 1466 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

HB 1466

Chairman Rep. Dekrey

Members of House Judiciary

Rep. James Kerzman, District 31

HB 1466 would create a new chapter relating to the prohibition of abortions, except to save the life of the mother. The unique part of this bill is the trigger, which is section 2. Basically, if passed and signed into law, this chapter would not tie the State or supporting organization into lengthy, possibility expensive litigation since it would not take effect until or if the US Supreme Court reverses its decision.

Quickly going through the bill; section 1 defines the terms of Abortion, Physician and Professional judgment as used in this proposed legislation. Along with the penalty for performing an abortion and the exception to save the life of the mother. Section 1 continues to further clarify legalities that may be involved with the administration and actions of this proposed legislation. Section 2, as I stated in my opening statement, provides an effective date, which would be left up to the Attorney General, when he or she determines new decisions by the Supreme Court of the United States would allow this to stand constitutional muster.

I firmly believe that life begins at conception and that life needs to be protected and nourished. I know there are differing opinions, especially on such a controversial issue as abortion, but I would be neglecting my duty if I did not take a stand on an issue that I feel so strongly about.

I don't plan to get into a bunch of statistics or scientific info relating to life issues. There should be individuals and organizations following who work closely with these issues that have up to date information. Also I would like to give opportunity for the public to testify.

Be happy to answer questions.

Respectfully Submitted,

Rep. James Kerzman



North Dakota Right to Life Association

Testimony before the HOUSE JUDICIARY COMMITTEE
House Bill 1466
January 22, 2007 8:00 am

Chairman DeKrey, members of the committee, I am Stacey Pflieger, Legislative Director of the North Dakota Right to Life Association. I am here today in support of HB 1466.

HB 1466 creates a new chapter to the North Dakota Century Code [14-02.7]. This new chapter would prohibit the performance of abortions in North Dakota, except to save the life of the mother. This chapter would also provide a penalty for the performance of an abortion. A large part of the language in HB 1466 addresses the legalities surrounding this abortion ban.

The distinctive language is the effective date in Section 2. This act would only become effective when the attorney general of North Dakota certifies that as a result of new decisions by the Supreme Court of the United States, it is reasonably probable that this Act would be upheld as constitutional.

HB 1466 provides North Dakota the unique opportunity to be proactive and have in place an abortion ban for when new decisions by the U.S. Supreme Court make the North Dakota abortion ban constitutional.

The North Dakota Right to Life Association urges a **DO PASS** recommendation on HB 1466.

Thank you. I would be happy to address any questions the committee may have.



Representing the Diocese of
Fargo and the Diocese
of Bismarck

Christopher T. Dodson
Executive Director and
General Counsel

To: House Judiciary Committee
From: Christopher T. Dodson, Executive Director
Subject: House Bill 1466 (Prohibitions on Abortion)
Date: January 22, 2007

The North Dakota Catholic Conference supports House Bill 1466 as a step forward toward a better world, one that does not turn its back on women in need or the unborn children they carry.

You are certain to hear cries about “legislating morality” and planned lawsuits. You will hear euphemisms like “products of conception,” “termination of pregnancy,” “privacy,” and “choice.” None of the rhetoric or fear mongering can hide the central fact about abortion is that it is the deliberate killing of a developing child in the womb. This is not a religious opinion. It is not a personal opinion. It is a fact supported by science and reason.

House Bill 1466 is about whether we sit idle and complacently settle with a *status quo* that ignores common sense and science about human life or whether we become a society that is intellectually honest about what every abortion actually does.

House Bill 1466 is about whether we settle for a world where a human life can be ignored, discarded, dehumanized, and destroyed, simply because he or she is seen as an inconvenience, or whether we become a world that embraces all human life, no matter what their age, size, or appearance, and no matter the challenges they bring.

House Bill 1466 is about whether we settle for a world that turns its back on women in need, pitting them against their unborn children, leaving them alone with their “choice,” or whether we work for a society where no woman ever feels that destroying her unborn child is a solution to a difficult situation.

Some claim that abortion meets the needs of women. Abortion is actually a reflection that we have failed to meet the needs of women. In fact, abortion has become a barrier to meeting women’s needs.

So long as abortion is legal, men have an excuse to treat women as items for sexual pleasure without accepting the consequences.

So long as abortion is legal, employers have an excuse to discriminate against mothers, before and after birth.

So long as abortion is legal, parents can avoid their pregnant daughter’s real needs.

103 S. 3rd St., Suite 10 • Bismarck, ND 58501
(701) 223-2519 • 1-888-419-1237 • FAX# (701) 223-6075
<http://ndcatholic.org> • ndcatholic@btinet.net

So long as abortion is legal, society can drag its feet in creating a health care, economic, education, and social services system that ensures that women, children, and families receive the basic rights, services, and goods necessary to live lives of dignity.

Women deserve better. Unborn children deserve better. North Dakotans deserve better. House Bill 1466 is a choice for the better.

We ask for a **Do Pass** recommendation on House Bill 1466.



AMERICAN
ASSOCIATION OF
UNIVERSITY
WOMEN

TESTIMONY ON HB 1466
January 22, 2007

Chairman DeKrey and members of the House Judiciary Committee:

My name is Muriel Peterson, President of the Bismarck-Mandan branch of the American Association of University Women. I am providing testimony in opposition to HB 1466.

The US Supreme Court's 1973 ruling in *Roe v. Wade* determined that the right to privacy extends to a woman's decision to terminate her pregnancy. *Roe* also held that states could ban abortion in the third trimester except in cases of life and health endangerment of the woman.

AAUW supports the right of every woman to safe, accessible and comprehensive reproductive health care and believes that decisions concerning reproductive health are personal and should be made without governmental interference. AAUW trusts that every woman has the ability to make her own choices concerning her reproductive life within the dictates of her own moral and religious beliefs. AAUW members have made this position an action priority since 1971.

The performance of any or all medical procedures should remain an informed decision between the patient and qualified health care provider(s); not a decision of legislators. The State should not establish a law that turns a health care provider into a criminal for performing a medical procedure. Leave the provision of health care to the educated and trained professionals.

AAUW opposes the State's intrusion into the delivery of health care. The State of North Dakota need not arbitrarily predetermine the "best interest" of a patient. A third party (State of ND) should not control the decision-making of the woman, her physician and others she selects for consultation.

AAUW believes that individuals should be given complete and accurate information about their reproductive health and family planning options. Only with reliable and complete information about their reproductive health can anyone make informed and appropriate decisions.

Thanks, for the opportunity to provide testimony in opposition to HB 1466 on behalf of North Dakota's 300 members and 100,000 national members of the American Association of University Women.



NATIONAL ASSOCIATION OF SOCIAL WORKERS
NORTH DAKOTA CHAPTER

January 22, 2007

Testimony on House Bills (HB 1464, HB 1466, HB 1489 and HB 1494)
North Dakota House Judiciary Committee

Chairman DeKrey and members of the House Judiciary Committee:

My name is John E. Aikens, Minot resident and Past President of the ND Chapter of the National Association of Social Workers. We speak in opposition to House Bills HB 1464, HB 1466, HB 1489, and HB 1494.

The National Association of Social Workers Policy Position on Family Planning and Reproductive Choice, as approved by our national Assembly in 1975 and reconfirmed by the Assembly in 1990 is as follows:

The social work profession's position concerning abortion, family planning, and other reproductive health services is based on the principle of self-determination. The profession supports the fundamental right of each individual throughout the world to manage his or her fertility and to have access to a full range of safe and legal family planning services regardless of the individual's income, marital status, race, ethnicity, sexual orientation, age, national origin or residence.

A copy of NASW's background information, issue statement, policy statement and education and research references is attached for your review.

For thirty-two years NASW has supported choice in family planning and reproductive health. Our members continue to voice support for public policy based on self-determination at our triennial NASW Assembly's.

We request a committee vote of DNP on HB 1464, HB 1466, HB 1489, and HB 1494.

Thank you for this opportunity to testify against these bills



January 22, 2007

Chairman DeKrey and members of the House Judiciary Committee:

My name is Vicky Altringer and I am a member of the League of Women Voters, North Dakota. We speak in opposition to House Bills HB 1464, HB 1466, HB 1489, and HB 1494.

The League of Women Voters Public Policy Position on Reproductive Choice, as announced by our national board in January, 1983 is as follows:

The League of Women Voters of the United States believes that public policy in a pluralistic society must affirm the constitutional right of privacy of the individual to make reproductive choices.

A copy of the League's study, review and updates on our position is attached for your examination.

Based on our support of the LWVUS pro-choice public policy position and a twenty-four year history of re-affirmation of this policy by our members at our biennial conventions, we request a committee vote of DNP on HB 1464, HB 1466, HB 1489, and HB 1494.

Thank you for this opportunity to testify against these bills.

NORTH DAKOTA



WOMEN'S NETWORK

House Judiciary Committee
HB 1464; HB 1466; HB 1489
January 22, 2007

Chairman DeKrey and members of the committee, my name is Renee Stromme. I am Executive Director of the North Dakota Women's Network. We are a membership organization working to improve the lives of North Dakota women. It is the position of the North Dakota Women's Network that reproductive choices for women must be ensured.

In the interest of time, I will use this testimony to express opposition to three bills that you will be discussing today: House Bills 1464, 1466, and 1489.

- In 2005, the Institute for Women's Policy Research released a report on the status of women in North Dakota – I have provided the clerk with a copy for each of you. It discusses many issues related to women. However, on the issue of reproductive rights, North Dakota received an F in the report because our laws do not provide the level of support which are most beneficial to respecting women's reproductive choices, including coverage for contraceptives and access to reproductive health services. Each of these three bills will be a step backward for the rights of women.
- North Dakota has long been a state that respects choice and independence. As well, we are a state with a long history of respecting women – we were among the first to create policies allowing for property ownership by women and were one of the first states to extend the right to vote to women. We respect the right to choose a profession, choose to work outside the home, or choose to start a business. It is a North Dakota tradition. I urge you to maintain that tradition with a do-not-pass recommendation on all of the aforementioned bills.

Thank you and I stand for any questions.

418 E ROSSER, SUITE 301B · BISMARCK, ND 58501 · 701-255-6240, EXTENSION 21

The North Dakota Women's Network is a membership based organization consisting of women from all walks of life. Members will be the voice and substance of the Network. Collectively, the membership will drive the changes needed for women of North Dakota.

The Network's focus will be broad in definition.

Our Concerns,

- Political Participation
 - Only 16% of state legislators are women.
- Employment and Earnings
 - Women, depending on race, make between 60-80 cents on every dollar a white man makes.
- Social Autonomy
 - There is a low proportion of women-owned businesses in ND.
- Economic Autonomy
 - 14% of women live in poverty.
- Reproductive Rights
 - Contraceptives are not commonly covered by insurance.
- Health and Well-Being
 - Native women's health lags behind that of white women.
- Violence Against Women
 - Women continue to experience far too much interpersonal violence and live in fear of rape.
- Educational Opportunities
 - Only 22% of women have four-year degrees or higher.
- Women's Life Choices
 - Women desire unity and equality for all women.

And, Ensuring Women's Voices are Heard in Decision-Making at all Levels.

Statistics from the Status of Women in North Dakota Report, 2004, Institute of Women's Policy Research available at www.iwpr.org

North Dakota Women's Network Membership Information

As leaders, the North Dakota Women's Network (NDWN) will serve as the catalyst for improving the lives of women through communication, legislation and increased public activism.

Name: _____

Organization (if applicable): _____

Address: _____

City: _____

State: _____ Zip: _____

Telephone: _____

Email: _____

Individual membership:

___ \$30 Individual

___ \$10 Student

___ A dollar amount more fitting for you (higher or lower).

___ A financial contribution isn't possible at this time, but my time to NDWN would be even more valuable!

Nonprofit Organization membership (based on operating budget);

___ \$100 for a budget under \$100,000

___ \$150 for a budget between \$100,000 and \$500,000

___ \$200 for a budget over \$500,000

Your membership contribution to NDWN:

\$ _____

Additional donation to NDWN: \$ _____

Total enclosed: \$ _____

Statement of commitment

*I support the mission of the
North Dakota Women's
Network and commit to the
common purposes of NDWN
to achieve full equality for
women.*

Signature: _____

Date: _____

Make checks payable to,
North Dakota Women's Network.
Memberships are requested on an
annual basis.

The Women's Network
understands that there is no
universal agreement among
women on all the concerns of
the Women's Network, but we
hope we can actively work
together and not work against
each other on issues vital to
improving women's lives.

Please send membership to:

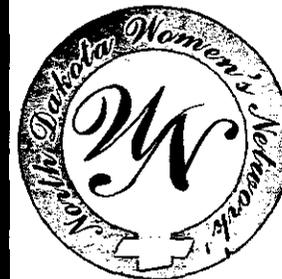
North Dakota Women's Network
418 E Rosser #301B
Bismarck, ND 58501

Phone: 701-255-6240 ext 21

Fax: 701-255-1904

E-mail: renee@ndwomen.org

**North Dakota
Women's
Network**



As leaders, the North
Dakota Women's
Network will serve as
the catalyst for
improving the lives of
women through
communication,
legislation and increased
public activism.

www.ndwomen.org



Planned Parenthood®

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Testimony
House Bill 1466
House Judiciary Committee
January 22, 2007

Chairman DeKrey and members of the Committee, thank you for the opportunity to present testimony in opposition of House Bill 1466. For more than 75 years, Planned Parenthood MN, ND, SD has worked in our region to make sure all people have the information and the means to make free and responsible decisions about whether and when to have children; our mission affirms the right to access reproductive health care including birth control and safe abortion care. House Bill 1466 is an extreme measure which would put women's health in grave danger by banning abortion.

The reality is that unintended pregnancies do occur. For women who experience one, access to safe, legal abortion is imperative. Despite polarized opposition to the choice of abortion, public health data shows that medically safe, legal abortion has a profound impact on American women and their families.

Regardless of one's personal or religious feelings regarding abortion, it cannot be disputed that banning abortion will not stop abortion. Banning abortion in North Dakota would only return the women of this state to the days prior to the 1973 *Roe v. Wade* decision, when abortions occurred illegally in great numbers and resulted in unsafe procedures and high death tolls.

By the mid-sixties, a total of 800,000 (mostly illegal) abortions were performed nationally each year.¹ These procedures were often extremely unsafe and put women's health at great risk.

House Bill 1466 completely ignores the health of a woman who may be experiencing a high-risk pregnancy. The bill provides no exception for an abortion to protect the health of a woman; neglecting all the possible complications of pregnancy, which could result in serious harmful effects on a woman. There are also conditions in pregnancy that make it impossible for a fetus to survive outside the womb; even in these cases a woman would not be able to terminate the pregnancy.

Under HB 1466, even if the doctor decided that a woman's life is at risk, the language does not offer a meaningful life exception, because this bill only creates an affirmative defense for doctor's who perform an abortion if a woman's life is in danger. If a doctor is prosecuted for performing an abortion the burden to prove that a life exception existed would be on the doctor. Therefore this measure is not only an attack on women's health, but also on doctors who feel it is necessary to perform an abortion to save a woman's life. This could create a chilling effect on doctors, discouraging them from doing what is necessary to save the life of a woman for fear of a punishment of up to 5 years in prison.

Moreover this bill makes no exceptions for rape and incest victims who find themselves pregnant. Incest victims are usually children who are rarely able to access emergency care and many cases are never reported. According to the National Coalition Against Sexual Assault (NCASA) 80% of reported child sexual abuse cases, the children were assaulted by someone in the family. NCASA reports that a child is often coerced and manipulated into remaining silent. Victims are terrified of revealing the abuse, due to confusion, guilt and fear of being blamed, punished, or not believed.

On a similar note, HB 1466 gives broad standing to maintain an action against the performance or attempted performance of an abortion. The attorney general, any state's attorney, an individual upon whom an abortion has been performed or attempted to be performed, the parent of a minor, or the father of the unborn fetus has standing to bring a claim. This is a dangerous provision. An overly zealous state attorney could push an anti-choice ideology over protecting the law and the father of an unborn fetus could pit the pregnant woman against the father and possibly force an abused woman to defend her own rights against an abusive man. Giving standing to a broad range of people does not protect women or families.

HB 1466 also would ban attempted abortion, which is defined in the bill as “an act or omission that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in the performance of an abortion in this state.” This language is extremely vague and could capture almost any interaction with a person seeking information about abortion. It creates an exception for people such as a nurse, technician or secretary only if it is clear that they were acting at the direction of the physician. Otherwise a person, including the pregnant woman, could be found liable under the attempted abortion provision. This language is sweeping, poorly drafted, and dangerous.

If elected officials are serious about reducing the number of abortions, they should stop playing politics and address the issues that lead to unintended pregnancy- such as insufficient access to family planning services and the failure to provide medically accurate sexuality education. Only by focusing on preventing unwanted pregnancy will the need for abortion in North Dakota be reduced.

Decisions of this magnitude, because of the impact they have on people’s lives, are best left to the woman involved, in consultation with her physician, her family and her faith. I urge the members of the House Judiciary Committee not to turn back the hands of time, and to oppose HB 1466 and protect the health and safety of North Dakota’s women.

¹ Abernathy JR, Greenberg BG and Horvitz DG, Estimates of induced abortion in urban North Carolina, *Demography*, 1970, 7(1): 19-29.

**NORTH DAKOTA COUNCIL ON ABUSED WOMEN'S SERVICES
COALITION AGAINST SEXUAL ASSAULT IN NORTH DAKOTA**

418 East Rosser #320 • Bismarck, ND 58501 • Phone: (701) 255-6240 • Fax 255-1904 • Toll Free 1-888-255-6240 • ndcaws@ndcaws.org

January ²¹ 16, 2007

Re: Testimony in opposition to HB 1466 and HB 1489

Chairman DeKrey and Members of the House Judiciary Committee:

For the record my name is Randi Roerick with the ND Council on Abused Women's Services/Coalition Against Sexual Assault in ND. I am here today to provide testimony in opposition to HB 1466 and HB 1489. It seems, in our perspective, that neither of these bills allows access to emergency contraception or abortion for victims of sexual assault or incest. We aren't here today to debate the issue of abortion itself; our office does not currently have a policy position on abortion, so we will limit our testimony to the specific exclusion of exemptions for rape and incest survivors.

In ND in 2005, over 800 sexual assault/incest victims were served by crisis centers across the state, 63% of these victims had been sexually assaulted and 30% of all victims reported incest or had a history of incest. A female sexual assault victim's number one concern is pregnancy, followed closely by sexually transmitted diseases. The risk of pregnancy from a sexual assault is 2 to 5%. In the U.S., an estimated 25,000 women become pregnant from sexual assault every year (Steward, & Trussell, 2000). Can you imagine the trauma of surviving a rape from a relative, a stranger, a boyfriend, someone you thought you could trust, only to find out you were carrying their child. I think you might all agree that no one really understands the depth of the hurt, the trauma, the betrayal or the shock that accompanies a sexual assault except the survivor. In much of the same way none of us can understand how much harder that situation might be if it resulted in a pregnancy. I am not here today to tell you that all survivors should or even want to have abortions; however, we feel very deeply that since we cannot fully understand the path that brought them to us we cannot make that very difficult decision for them. This is about allowing a person who has had all decision making powers taken away from them to make a very important decision about their health, their family and their future for themselves. National recommendations from the American Medical Association, Sexual Assault Nurse Examiners, American College of Emergency Physicians, International Association of Forensic Nurses, and the American College of Obstetricians and Gynecologists all state that providing emergency contraception in cases of sexual assault is the standard of care.

As was mentioned earlier, 2-5% of rapes result in pregnancy. While that seems like a fairly low risk, I would guess it seems high for the 800 survivors of sexual violence. Please allow them to make this very personal medical decision for themselves.

Thank you,

Randi Roerick

Randi Roerick

ND Council on Abused Women's Services/Coalition Against Sexual Assault in ND
418 E. Rosser Suite #320 Bismarck, ND 58501 701-255-6240

Testimony by Elizabeth M.K.A. Sund In Opposition to HB 1466

Chairman DeKrey and members of the House Committee, for the record my name is Elizabeth M.K.A. Sund. I am from Dickinson and am currently a student at the University of North Dakota. I am testifying in opposition to HB 1466, as well as HB 1489, HB 1494, and HB 1464.

These bills contain philosophical issues which are much deeper than the common debate over abortion. Outlawing abortion and restricting forms of birth control affect not only a woman's ability to make choices in her life, but also affects her humanity in general. Without the capability to control our own fertility, women will never have the opportunity to be the equals of men economically or socially.

It is unacceptable to pass legislation which diminishes one sector of society's life choices simply because of their sex. Laws of this nature could never affect the lives of men in the way they would forever change the lives of unwilling women. To force a woman to carry a child against her will is to force her to give up the life she chooses willingly. A woman is physically connected to a growing fetus while an unwilling man may choose to come and go as he pleases. Although this biologically will never change, outlawing abortion will deny women the equal opportunity to live the lives they choose everyday.

Women must fight hard enough as it is to be taken seriously the workplace, classroom, and at home. Approving these resolutions would only show that the State of North Dakota views women as second class citizens. I ask that the women of North Dakota be allowed to continue living fully human lives, which means taking part in society as the equals of men.

I encourage the committee to reject HB 1466 and all other related bills and approve a "do not pass" recommendation.

Att #1a
3-13-07

Chairman Sen. Nething

Members of Senate Judiciary

Rep. James Kerzman, District 31

HB 1466 would create a new chapter relating to the prohibition of abortions, except to save the life of the mother. The unique part of this bill is the trigger, which is section 2. Basically, if passed and signed into law, this chapter would not tie the State or supporting organization into lengthy, possibly expensive litigation since it would not take effect until or if the US Supreme Court reverses its decision.

Quickly going through the bill; section 1 defines the terms of Abortion, Physician and Professional judgment as used in this proposed legislation. Along with the penalty for performing an abortion and the exception to save the life of the mother. Section 1 continues to further clarify legalities that may be involved with the administration and actions of this proposed legislation. Section 2, as I stated in my opening statement, provides an effective date, which would be left up to the Attorney General, when he or she determines new decisions by the Supreme Court of the United States would allow this to stand constitutional muster.

I firmly believe that life begins at conception and that life needs to be protected and nourished. I know there are differing opinions, especially on such a controversial issue as abortion, but I would be neglecting my duty if I did not take a stand on an issue that I feel so strongly about.

HB 1466 was drafted from language brought forward to the Pro-Life Caucus. Suggested amendments were offered in the House, but not adopted. I would like to offer amendments that basically take HB1466 out of Sec.14, the Domestic Relations section of the code, and place it in Sec. 12.1, the Criminal code section. The amendments also simplify bill by eliminating the Civil provision language while leaving original intent.

Be happy to answer questions.

Respectfully Submitted,

Rep. James Kerzman

Att #2a
3-13-07



Representing the Diocese of Fargo and the Diocese of Bismarck

Christopher T. Dodson
Executive Director and
General Counsel

To: Senate Judiciary Committee
From: Christopher T. Dodson, Executive Director
Subject: House Bill 1466 (Prohibition on Abortion)
Date: March 13, 2007

The North Dakota Catholic Conference supports House Bill 1466 as a step forward toward a better world, one that does not turn its back on women in need or the unborn children they carry.

You are certain to hear cries about "legislating morality" and planned lawsuits. You will hear euphemisms like "products of conception," "termination of pregnancy," "privacy," and "choice." None of the rhetoric or fear mongering, however, can hide the fact that abortion is the deliberate killing of a developing child in the womb. This is not a religious opinion. It is not a personal opinion. It is a fact supported by science and reason.

House Bill 1466 is about whether we sit idle and complacently settle with a *status quo* that ignores common sense and science about human life or whether we become a society that is intellectually honest about what abortion -- what it is and how it diminishes society.

House Bill 1466 is about whether we settle for a world where a human life can be ignored, discarded, dehumanized, and destroyed, simply because he or she is seen as inconvenient, or whether we become a world that embraces all human life, no matter what a person's age, size, or appearance, and no matter the challenges he or she brings.

House Bill 1466 is about whether we settle for a world that turns its back on women in need, pitting them against their unborn children, leaving them alone with their "choice," or whether we work for a society where no woman ever feels that destroying her unborn child is a solution to a difficult situation.

Legal abortion means that we have failed to meet the needs of women. In fact, abortion has become a barrier to meeting women's needs. So long as abortion is legal, men have an excuse to treat women as items for sexual pleasure without accepting the consequences. So long as abortion is legal, employers have an excuse to discriminate against mothers, before and after birth. So long as abortion is legal, society can drag its feet in creating a health care, economic, education, and social services system that ensures that women, children, and families receive the basic rights, services, and goods necessary to live lives of dignity.

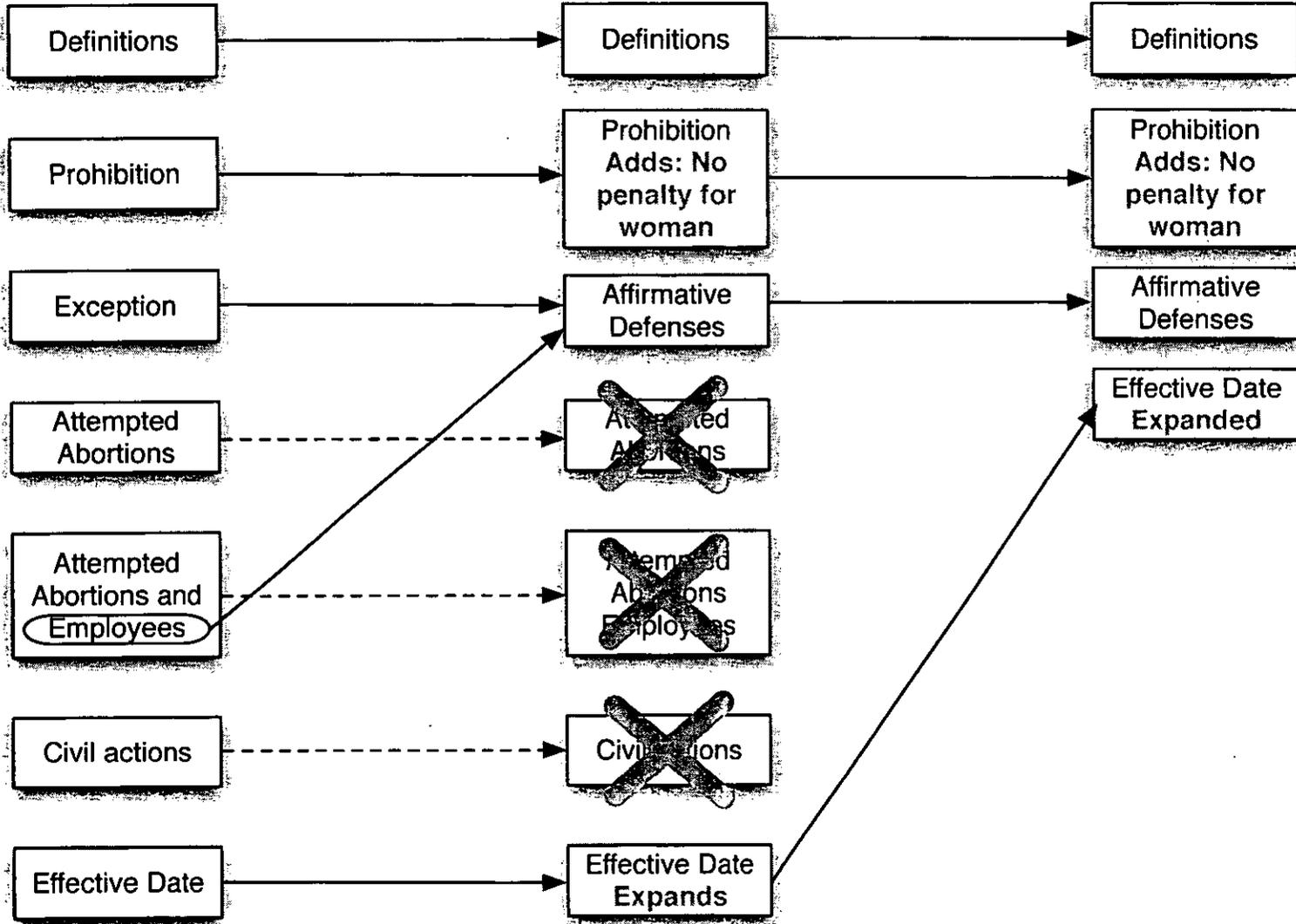
Women deserve better. Unborn children deserve better. North Dakotans deserve better. House Bill 1466 is a choice for the better. We ask for a Do Pass recommendation on House Bill 1466.

103 S. 3rd St., Suite 10 • Bismarck, ND 58501
(701) 223-2519 • 1-888-419-1237 • FAX# (701) 223-6075
<http://ndcatholic.org> • ndcatholic@btinet.net

House Bill 1466

Proposed
Amendments to
House Bill 1466

Resulting HB 1466



AT 26
3-13-07



North Dakota
**FAMILY
ALLIANCE**

DEDICATED TO STRENGTHENING FAMILIES

AA #3
3-13-07

A Trusted Voice

Tom D Freier
EXECUTIVE DIRECTOR

HB 1466
Senate Judiciary Committee
March 13, 2007

Mr. Chairman and members of the Senate Judiciary Committee, I am Tom Freier, and I represent the North Dakota Family Alliance. I am here in support of HB 1466.

Thank you for hearing this bill. If as a result of hearing and passing this bill, one unborn life is saved, I would count our efforts as a success. If in the future all unborn lives would be protected, I believe our legacy would be in place for generations to come.

While HB 1466 relies on a delayed implementation, it carries a strong message. It states that if the US Supreme Court reverses its decision on Roe v. Wade, the state of North Dakota would, in essence revert back to where we were before Roe v Wade.

In order for us to put in perspective where we were, we need to know where we are today. Over the past years, this body has passed legislation to attempt to inform the mother of the ramifications of an abortion, and share options. It has regulated the industry performing abortions. It has addressed the issues of parental consent, the use of public funds, and protecting the life of the mother. Even with these and many other pieces of legislation passed, we still have over 1200 unborn human lives lost each year in North Dakota. That is not acceptable.

In a practical sense, we should consider what might have been if these 1200 lives per year had not been lost. How would the workforce shortage issues be different? On a national level, how would the social security funding dilemma be affected by 50 million additional people paying into the system.

In a personal sense, we can only imagine the trauma and emotional distress affecting the women and families involved in 50 million abortions.

At the North Dakota Family Alliance, we believe that human life begins at conception, and no one has the right to end that new human life. I believe it to be the duty of the state of North Dakota, and in the best interests of the people of North Dakota, to protect each human being, both born and unborn. The passage of HB 1466 is another step toward accomplishing that goal.

Please give HB 1466 a Do Pass.

Att # 4
3-13-07

Testimony
House Bill 1466
Senate Judiciary Committee
March 13, 2007

Chairman Nething and members of the Committee, thank you for the opportunity to present testimony in opposition of House Bill 1466. My name is Tim Stanley and I am the Senior Director of Government and Public Affairs for Planned Parenthood Minnesota, North Dakota, South Dakota.

For more than 75 years, Planned Parenthood MN, ND, SD has worked in our region to make sure all people have the information and the means to make free and responsible decisions about whether and when to have children; our mission affirms the right to access reproductive health care including birth control and safe abortion care. House Bill 1466 is an extreme measure which would put women's health in grave danger by banning abortion.

Planned Parenthood is absolutely committed to helping our clients avoid unintended pregnancy. It is the core of our mission – contraceptive services are by far the most common medical services we provide. Indeed, Planned Parenthood estimates that nationwide, its contraceptive services avert 617,000 unintended pregnancies. We also devote significant resources to educating adolescents and women about their need for contraception and their contraceptive options.

The reality, however, is that unintended pregnancies do occur. For women who experience one, access to safe, legal abortion is imperative. Safe, legal abortion has resulted in dramatic public health benefits, social benefits, and better healthcare for American women since 1973. Despite polarized opposition to the choice of abortion, public health data shows that medically safe, legal abortion has a profound impact on American women and their families.

Regardless of one's personal or religious feelings regarding abortion, it cannot be disputed that banning abortion will not stop abortion. Indeed, by the mid-sixties, a total of 800,000 (mostly illegal) abortions were performed nationally each year. These procedures were often extremely unsafe and put women's health at great risk. Banning abortion in North Dakota would only return the women of this state to the days prior to the 1973 *Roe v. Wade* decision, when abortions occurred illegally in great numbers and

resulted in unsafe procedures and high death tolls.

You will probably hear others argue today that this bill is more moderate than other abortion bans because it would not go into effect until the attorney general certified that because of a new decision by the Supreme Court of the United States, it is reasonably probable that this act would be upheld as constitutional. While this language seems to suggest that this abortion ban would not go into effect until constitutionally permissible, the language of the effective date is vague and a premature decision by the attorney general could send North Dakota into costly litigation.

Regardless of when this bill goes into effect, it is still a ban on abortion. The fact that this is a future ban does not change that – it only means that this Legislature is making decisions about future generations. The people of North Dakota do not want this Legislature to make decisions for them that might not take effect for years to come and they do not want legislation that could pose a risk to women's health, they want this Legislature to address the problems facing this State today.

Legislation like HB 1466 not only threatens women's lives and health, it intrudes upon the doctor-patient relationship. Under HB 1466, a physician would not be able to determine the best care for her patients and thereby, would damage the physician-patient relationship.

Under HB 1466, if a doctor performed an abortion, she could go to prison if she performed the treatment that would be best for the patient. In fact, because, as explained below, the "attempted abortion" provision of HB 1466 is so broad, the doctor could find herself imprisoned for even suggesting to her patient that she should consider having an abortion or helping her to have that treatment outside of North Dakota.

While HB 1466 purports to allow an abortion to prevent a woman's death, instead, HB 1466 creates only an affirmative defense for doctor's who perform an abortion to save a woman's life. It would provide little comfort to a physician who is faced with a woman who needs an abortion that *after* he is prosecuted, he has the burden of proving the abortion was necessary to prevent her death. In this way too, HB 1466 is not only an attack on women's health, but also on doctors. This could create a chilling effect, discouraging doctors from doing what is necessary to save the life of a woman for fear of a punishment of up to 5 years in prison. The people of North Dakota do not want the government telling them and their doctors what medical decisions they should make.

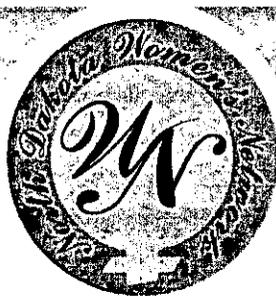
HB 1466 would not only ban abortion – it would criminalize attempting to perform an abortion which is broadly defined in the bill as "an act or omission that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in the performance of an abortion in this state." This language is extremely vague and could capture almost any interaction with a person seeking information about abortion, even if the abortion never actually took place. It creates an exception for people such as a nurse, technician or secretary only if it is clear that they were acting at the direction of the physician. Otherwise a person, including the pregnant woman, could be found liable under the attempted abortion provision. This

language is sweeping, poorly drafted, and dangerous.

Finally, not satisfied with merely banning abortion, HB 1466 also gives numerous individuals standing to bring lawsuits against someone who performed or attempted to perform an abortion. The attorney general, any state's attorney, an individual upon whom an abortion has been performed or attempted to be performed, the parent of a minor, or the father of the unborn fetus has standing to bring a claim. This is a dangerous provision. Giving the father veto power over a woman's decision to continue a pregnancy can exacerbate an abusive relationship and force a woman to consult an abusive man about what she should do with her own body. Similarly, allowing the parent of a minor to have veto power over a minor's decision could also exacerbate an abusive relationship. Allowing for all of these lawsuits does not protect women or families.

If elected officials are serious about reducing the number of abortions, they should stop playing politics and address the issues that lead to unintended pregnancy- such as insufficient access to family planning services and the failure to provide medically accurate sexuality education. Only by focusing on preventing unintended pregnancy will the need for abortion in North Dakota be reduced.

Decisions of this magnitude, because of the impact they have on people's lives, are best left to the woman involved, in consultation with her physician, her family and her faith. I urge the members of the Senate Judiciary Committee not to turn back the hands of time, and to oppose HB 1466 and protect the health and safety of North Dakota's women.



Senate Judiciary Committee
HB 1466
March 13, 2007

Chairman Nething and members of the committee, my name is Renee Stromme. I am Executive Director of the North Dakota Women's Network. We are a membership organization working to improve the lives of North Dakota women. It is the position of the North Dakota Women's Network that reproductive choices for women must be ensured.

In 2005, the Institute for Women's Policy Research released a report on the status of women in North Dakota. On the issue of reproductive rights, North Dakota received an F in the report because our laws do not provide the level of support which is most beneficial to respecting women's reproductive choices, including coverage for contraceptives and access to reproductive health services. This bill will be a step backward for the rights of women.

To further illuminate the position of the ND Women's Network, I will now share the testimony from a member of the organization: Dr. Elizabeth Burns.

418 E ROSSER, SUITE 301B · BISMARCK, ND 58501 · 701-255-6240, EXTENSION 21

AS LEADERS, THE NORTH DAKOTA WOMEN'S NETWORK WILL SERVE AS THE CATALYST FOR IMPROVING THE LIVES OF WOMEN THROUGH LEGISLATION, COMMUNICATION AND INCREASED PUBLIC ACTIVISM.

HH #6
3-13-87

Testimony for House Bill 1466
Elizabeth A. Burns, MD, MA

To the Honorable Members of the Senate Judiciary Committee:

I am sorry that I'm unable to attend this hearing in person today, but my work at the UND School of Medicine and Health Sciences calls for me to be at a meeting out of state at this time. Because of that, I've asked Renee Stromme to bring my testimony forward.

I would like to share what I've learned as a practicing family physician with over 25 years of experience, practicing in Iowa, Illinois and North Dakota. Until I moved to ND, I provided pregnancy care for my patients. This was a very important part of my practice and the hundreds of deliveries I participated in were, and continue to be, very special to me.

Unfortunately, I also had patients who were pregnant who did not want to be for various reasons. Several were pregnant as a result of rape. One had taken the "morning after" pill, but it had not worked. I had one patient whose pregnancy was putting her life at risk. I also knew of young girls who were victims of incest and were pregnant. We had abortion services available and none of these women were forced to continue a pregnancy. None that I cared for were happy about having an abortion. They gave the decision careful and deliberate thought. Most had the support of their family. What they didn't have to worry about was being forced to seek an unlawful pregnancy termination, for during my medical career, abortion has been legal.

I have heard stories from older physicians about what it was like before abortion became legal in this country. The physical risks that were taken by women so frightened about their condition that they thought they had no other option. I cannot imagine what it was like in those days, when a woman would risk her life rather than struggle with society's reaction to her pregnancy. In those days, as now, some women choose to continue the pregnancy and place their child for adoption or raise the child as a single parent. But others could not, and some paid with their lives.

I do not want that future for the young women coming of age in North Dakota. I know that terminating a pregnancy is not a great choice and it is not a choice everyone would make. But it should remain a choice for the women of North Dakota. In order to keep this option, I ask you to vote against HB 1466. Thank you.

Good morning, Chairman Nething and members of the committee, my name is Tiffany Johnson.

I am an attorney in Bismarck and a member of the North Dakota Women's Network. North Dakota's women, the medical profession that treats them, and those that care about them will suffer if this bill is passed.

HB 1466 ties the hands of physicians exposing North Dakota's women to unnecessary risks. While HB 1466 purports to allow an abortion to prevent a woman's death, in actuality the bill merely creates an affirmative defense for doctor's who perform an abortion to save a woman's life. As an affirmative defense, it **only** becomes relevant after a physician is prosecuted for performing an abortion that was necessary to prevent a woman's death. Doctors prosecuted under the law will have the burden of showing that the abortion was necessary to prevent the woman's death. If a doctor is unable to meet this possibly heavy burden, he or she faces up to 5 years in prison. In this way, HB 1466 is not only an attack on a woman's health but also on doctors and their professional medical judgment. The bill places a doctor in a Catch 22 situation, where he or she must either take the necessary action to save a woman's life or face imprisonment and the social stigma that goes along with a criminal prosecution. The people of North Dakota do not want the government telling them and their doctors what medical decisions they should make.

I implore you, as a woman of this state, to reject HB 1466. Thank you. I will be pleased to entertain any questions you may have.

HH # 8
3-13-07



NATIONAL ASSOCIATION OF SOCIAL WORKERS
NORTH DAKOTA CHAPTER

March 13, 2007

TESTIMONY ON HB 1466
ND Senate Judiciary Committee

Chairman Nething and Members of the Senate Judiciary Committee:

My name is Connie M. Hildebrand, legislative chair and lobbyist for the ND Chapter of the National Association of Social Workers. We speak in opposition to HB 1466.

NASW determines its public policy positions at our triennial, national convention of delegates elected from every state in this nation. North Dakota participates in that public policy voting procedure. NASW-ND is required to abide by the decision of our delegates just as you, our legislative representatives, are bound by final decisions of this 60th Legislative Assembly.

The National Association of Social Workers Policy Position on Family Planning and Reproductive Choice, as approved by our national Assembly in 1975 and reconfirmed by the Assembly in 1990, is as follows:

The social work profession's position concerning abortion, family planning, and other reproductive health services is based on the principle of self-determination. The profession supports the fundamental right of each individual throughout the world to manage his or her fertility and to have access to a full range of safe and legal family planning services regardless of the individual's income, marital status, race, ethnicity, sexual orientation, age, national origin or residence.

For thirty-two (32) years NASW has supported choice in family planning and reproductive health. Our members continue to voice support for public policy based on self-determination at our triennial NASW Assembly's.

A copy of NASW's background information, issue statement, policy statement and education and research references is attached for your review.

We request a committee vote of DNP on HB 1466, and thank you for the opportunity to testify against this bill.

SEVENTH EDITION

2006-2009

Speaks

Family Planning and Reproductive Choice

BACKGROUND

Women and men have attempted to practice family planning since the beginning of human history. The modern history of family planning in the United States began in 1916 when Margaret Sanger, a public health nurse in New York City, opened the first birth control clinic. She and two of her associates were arrested and sent to jail for violating New York's obscenity laws by discussing contraception and distributing contraceptives. Ms. Sanger argued "that birth control had to be legalized to free women from poverty, dependence and inequality" (Planned Parenthood Federation of America, 1998b, p. 2). Many social workers have participated in the birth control movement in the United States.

Government support of family planning in the United States began in the 1960s when President Kennedy endorsed contraceptive research and the use of modern birth control methods as a way to address the world's population growth. It was under President Johnson and the War on Poverty that family planning services became more widely available. At that time, studies showed that the rate of unwanted childbearing among poor people was twice as high as it was among the more affluent population. This difference was attributed to the lack of available family planning services for poor women. By 1965, with bipartisan support, federal funds were made available to support family planning services for low-income women as a way of alleviating poverty, expanding economic independence, and decreasing dependency on welfare (Planned Parenthood Federation of America, 1998b).

Title X of the Public Health Service Act of 1970 provided the majority of public funding for family planning services until 1985. Because of political factors, such as the right wing and religious assaults on women's reproductive rights, and fiscal pressures, Congress has not formally reauthorized Title X since 1985. Appropriations have continued, but without congressional support funding has been lower (Planned Parenthood Federation of America, 1998b). Government funding has been significantly reduced for family planning services in general in the United States and internationally, resulting in a two-tiered system of reproductive health care.

A vocal and well-organized minority of the population has been able to wield undue influence in the area of reproductive choice. However, public opinion polls continue to show that a large majority of Americans support a woman's decision in seeking contraception, abortion, and other reproductive health services. The public also supports sex education and continued government funding for research and development of birth control methods (Planned Parenthood Federation of America, 1998a).

The World Health Organization (WHO) has four program goals in the area of reproductive health. WHO (1999) holds that people should exercise their fundamental "sexual and reproductive rights" in order to:

- (1) experience healthy sexual development and maturation and have the capacity for equitable and responsible relationships and sexual fulfillment

(2) achieve their desired number of children, safely and healthily, when and if they decide to have them.

(3) avoid illness, disease and disability related to sexuality and reproduction and receive appropriate care when needed

(4) be free from violence and other harmful practices related to sexuality and reproduction. (p. 1)

These areas of concern make clear how comprehensive services must be in order to achieve sexual and reproductive health for all.

There are numerous economic and social benefits to good public family planning policies. Public funding for family planning prevents 1.2 million pregnancies in the United States each year. Of that number, 509,000 are prevented unintended births and 516,000 are prevented abortions. Each dollar spent on prevention saves more than four dollars in other medical costs and welfare. Women who use family planning services are more likely to use prenatal services and thus have reduced infant mortality, have fewer low-birthweight babies, have reduced mortality, and have decreased health problems for themselves (Alan Guttmacher Institute, 1998a, 1998b). The infant mortality rate is two times higher for a sibling born within two years of another child, a rate that is constant throughout the world (Planned Parenthood Federation of America, 1998c).

Maternal Death

Effective family planning policies prevent maternal mortality and morbidity. Mortality declines significantly with better and safer contraceptives. For example, "maternal mortality fell by one-third in a rural area of Bangladesh following a community project that increased contraceptive use prevalence to 50 percent" (Keller, 1995, p. 4). Worldwide there are approximately 585,000 pregnancy-related deaths each year. Ninety-nine percent of these deaths have occurred in developing countries (Alan Guttmacher Institute, 1998c). According to UNICEF, "no public health problem shows greater disparity between rich and poor countries than maternal mortality" (UNICEF, 1998).

Adolescents and older women are at the greatest risk of maternal death. In the United States between 1987 and 1990, there were 1,450 deaths that were pregnancy related, representing 9.2 deaths per 100,000 live births. The death rate for African American women was three to four times higher than for white women. The pregnancy-related death rate for women with no prenatal care was 7.7 times higher than for the group who had "adequate" prenatal care (Koonin, MacKay, Berg, Atrash, & Smith, 1998). Overall, the health and well-being of all family members improve when women are able to control the number and spacing of their children.

Abortion Rates and Unintended Pregnancies

Among the 190 million women who conceive each year in the world, there are 20 million abortions. These abortions usually occur under unsafe conditions, increasing the mortality rate and subsequent health problems (UNICEF, 1998). In 1996 there were 1.37 million abortions performed in the United States, according to the Centers for Disease Control and Prevention. This represented a decrease of 4.5 percent over the preceding year ("Morbidity and Mortality Weekly Report," as cited in American Medical Association, 1998). Women who have access to contraceptives are less likely to be faced with unwanted pregnancy and to face the decision to have an abortion or carry to term. What common sense and research show, however, is that the most effective means of reducing abortion is preventing unintended pregnancies in the first place (Alan Guttmacher Institute, 1998b). In fact, the use of contraceptives reduces the incidence of abortions by 85 percent (Alan Guttmacher Institute, 1998b). The average heterosexual woman must practice contraception for approximately 27 years of her life to protect against unwanted pregnancies (Monson, 1998). However, contraception, even under the best circumstances, cannot end the need for abortion entirely. Contraceptive methods will never be perfect, and women and men will never be perfect users of them. For example, about 1 in 10 women in the United States using contraception experiences an accidental preg-

nancy within 11 months of beginning to use a specific contraceptive method (Jan. Guttmacher Institute, 1999). Thus, the use of contraception reduces but will never eliminate the need for access to emergency contraception and to abortion services. Therefore women must have the right to decide for themselves, with the advice of qualified medical service providers, to determine whether or not to carry a pregnancy to term.

Since 1973 and the landmark *Roe v. Wade*, U.S. Supreme Court decision granting women in the United States the right to an abortion, access to safe and legal abortion services has been gradually restricted. Some of this erosion has been in the form of discontinuing government funding for abortions for poor women and of allowing states to bar use of public facilities for abortion. Some of it has taken the form of imposing restrictions and conditions on abortion services—such as requiring counseling, waiting periods, and/or notification and consent procedures, restrictions related to the circumstances of the pregnancy, or restrictions on the specific surgical or medical procedures that can be employed.

Men and Contraception

Prior to the advent of oral contraception for women, men had a greater part in taking responsibility for birth control. The primary methods of birth control at that time were abstinence, withdrawal, and condoms, methods that depended on the cooperation of men. After the pill, men have been largely left out of the area of reproductive choices (Ndong & Finger, 1998). Men are important to reproductive health because they benefit from limits in family size, are intimately involved in child rearing, are concerned with the spread of sexually transmitted diseases (STDs), and are interested in the health and welfare of their partners and children (Population Reports, 1998). The only effective way to prevent STDs is abstinence or condom use, which involves the cooperation of men.

More research on methods of birth control that involve men is being done (Ndong & Finger, 1998). Contraceptive use needs to be seen in the larger context of gender equality

and the involvement of men and women in roles and responsibilities that serve both sexes, not sex at the expense of one over another. One gender should not have the ultimate responsibility for contraception, procreation, and child-bearing.

Violence and Reproductive Health

The World Health Organization (1996) stated that "the most pervasive form of gender violence is violence against women by their intimate partners or ex-partners, including the physical, mental, and sexual abuse of women and sexual abuse of children and adolescents" (p. 1). In addition, violence has been associated with greater sexual risk taking among adolescents and the development of sexual problems in adulthood. Studies conducted in a range of countries suggest that from 20 percent to 50 percent of women experience being victims of physical abuse by their partners at some time in their lives and that on average from 50 percent to 60 percent of women abused by their partners are raped by them as well. The reproductive health consequences of gender-based violence include unprotected sex, STDs including acquired immune deficiency syndrome and human immunodeficiency virus, unwanted pregnancy, miscarriage, sexual dysfunction, and gynecological problems (WHO, 1998).

In the United States in recent years increasing incidents of violence, intimidation, and harassment of providers and users of legal abortion services have been curtailing the availability of abortion services (National Abortion and Reproductive Rights Action League [NARAL], 1999a). Since 1991, a number of physicians and other clinic staff have been murdered, and there have been over 200 reported acts of violence, including bombings, arsons, and assault, and 28,000 reported acts of disruption directed against abortion providers. The 1994 Freedom of Access to Clinics Entrances was passed but has not eliminated acts of violence of this kind. Unfortunately, "physicians and other clinic workers daily face the possibility of anti-choice terrorism and violence in order to provide women with essential reproductive health services" (NARAL, 1999a,

p. 4). These are health care professionals and their support staff engaged in providing legal medical services to clients who choose to receive them. This situation has contributed to the growing shortage of abortion providers in the United States: in 1999, 86 percent of counties in the United States had no abortion providers. When abortion services are safe and legal, the risk of complication and harm to women from the procedure is much lower than that of childbirth (Allan Guttmacher Institute, 1998c). The statements made by opponents of abortion that abortion leads to later problems with infertility, infant problems at birth, or breast cancer are not supported by any scientific evidence (NARAL, 1997).

ISSUE STATEMENT

The NASW Code of Ethics (NASW, 1999) states that "social workers promote clients' socially responsible self-determination" (p. 5). Self-determination means that without government interference, people can make their own decisions about sexuality and reproduction. It requires working toward safe, legal, and accessible reproductive health care services, including abortion services, for everyone.

As social workers, we believe that potential parents should be free to decide for themselves, without duress and according to their personal beliefs and convictions, whether they want to become parents, how many children they are willing and able to nurture, and the opportune time for them to have children. For the parents, unwanted children may present economic, social, physical, or emotional problems. These decisions are crucial for parents and their children, the community, the nation, and the world. These decisions cannot be made without unimpeded access to high-quality, safe, and effective health care services, including reproductive health services.

Reproductive choice speaks to the larger issue of quality of life for our clients. It "implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how to do so" (Hardee & Yount, 1998, p. 4). As social workers, we cannot address reproductive choice without addressing the larger

issue of discrimination and the empowerment of women. "How, when and whether to have a child involve different issues for women than for men; yet they do so in ways that vary depending on a woman's class, age, and occupation, as well as the time and culture in which she lives. . . . Unequal access to abortion and birth control perpetuates existing systems of discrimination" (Rudy, 1996, p. 92). The lack of funding for abortion for poor women, decreased availability of family planning services, and our current system of welfare reform with financial disincentives to pregnancy and childbearing with no mention of family planning or abortion services or the responsibilities of men in contraception and child rearing clearly work to the disadvantage of women.

The United Nations' Fourth World Conference on Women adopted a platform statement in 1995 recognizing the importance of women's sexual and reproductive health (along with physical, social, and mental health) (United Nations, 1995). The International Federation of Social Workers (IFSW) has adopted a policy statement on women endorsing the platform statement and identifying women's health issues, including sexual and reproductive health, as an area of critical concern to social work (IFSW, 1999).

Population development, the environment, and social and economic stability are integrally linked. Worldwide, women who defer childbearing have the chance to further their education, develop work skills, acquire broader life experiences, have fewer children, provide better for the children they do have, and improve the well-being of their families. Unimpeded access to family planning and reproductive health services, including abortion services, is a fundamental human right that contributes to the advancement of women worldwide (United Nations Commission for Human Rights, 1979). A total approach to population policy must include not only family planning and reproductive health care services but improvement of socioeconomic conditions, including the provision of income, food, and other essential goods and services that are basic to meeting family needs. Without such planning and development, individual self-determination in reproduction and sexuality

cannot be realized and the full benefits resulting from family planning and reproductive health services cannot be achieved.

A continuing partnership between the private and the public sectors is necessary to assist families to plan for children. Adequate financing is necessary to make family planning programs and professional services available to all, regardless of the ability to pay. Government policies and medical programs, as well as medical programs under private auspices, should ensure that potential parents have full access to the technical knowledge and resources that will enable them to exercise their right of choice about whether and when to have children. As part of the professional team operating these programs, social workers, with their underlying emphasis on and particular methods for enhancing self-determination, have a special responsibility.

Social workers should take professional responsibility to assist clients in obtaining whatever help and information they need for effective family planning and for safeguarding their reproductive health. Because social workers are knowledgeable about family and community resources, they have many opportunities to help clients obtain desired services. Social workers also have a professional obligation to work on local, state, national, and international levels to establish, secure funding for, and safeguard family planning and reproductive health programs, including abortion providers, to ensure that these services remain safe, legal, and available to all who want them.

POLICY STATEMENT

The social work profession's position concerning abortion, family planning, and other reproductive health services is based on the principle of self-determination:

- Every individual (within the context of her or his value system) must be free to participate or not participate in abortion, family planning, and other reproductive health services.

- The use of all reproductive health care services, including abortion and sterilization services, must be voluntary and preserve the individual's right to privacy.

- Women of color, women in institutions, and women from other vulnerable groups should not be used in the testing and development of new reproductive techniques and technologies.

- The nature of the reproductive health care services that a client receives should be a matter of client self-determination in consultation with the qualified health care provider furnishing them.

- Current inequities in access to and funding for reproductive health services, including abortion services, must be eliminated to ensure that such self-determination is a reality for all.

- We believe that client self-determination and access to a full range of safe and legal reproductive health care services without discrimination will contribute to an enhancement of the individual and collective quality of life, strong family relationships, and population stability.

Although men also have an important stake in access to family planning and reproductive health services (Ndong & Finger, 1998; Population Reports, 1998), because women bear and nurse children their right to these services has been recognized internationally. The Convention to Eliminate All Forms of Discrimination Against Women asserts that women internationally have the right to "decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights" (United Nations Commission for Human Rights, 1979, p. 8).

If an individual social worker chooses not to participate in the provision of abortion or other specific reproductive health services, it is his or her responsibility to provide appropriate referral services to ensure that this option is available to all clients.

Availability of and Access to Services

In addition, the profession supports:

The fundamental right of each individual throughout the world to manage his or her fertility and to have access to a full range of safe



TESTIMONY ON HB 1466
March 13, 2007

Chairman Nething and Members of the Senate Judiciary Committee:

My name is Connie M. Hildebrand, lobbyist for the League of Women Voters, North Dakota. We speak in opposition to HB 1466.

The League of Women Voters public policy position on reproductive choice, as announced by our national board in January, 1983 is as follows:

The League of Women Voters of the United States believes that public policy in a pluralistic society must affirm the constitutional right of privacy of the individual to make reproductive choices.

A copy of the League's study, review and updates on our position is attached for your examination. This has been our position for twenty-four (24 years).

We request a committee vote of Do Not Pass on HB 1466.

Thank you for this opportunity to testify against HB 1466.



PUBLIC POLICY ON REPRODUCTIVE CHOICES **

The League's History

The 1982 convention voted to develop a League position on Public Policy on Reproductive Choices through concurrence. During fall 1982, League members studied the issue and agreed to concur with a statement derived from positions reached by the New Jersey and Massachusetts LWV's. The LWVUS announced the position in January 1983.

In spring 1983, the LWVUS successfully pressed for the defeat of S.J. Res. 3, a proposed constitutional amendment that would have overturned *Roe v. Wade*, the landmark Supreme Court decision that the right of privacy includes the right of a woman, in consultation with her doctor, to decide to terminate a pregnancy. Also in 1983, the League joined as an *amicus* in two successful lawsuits to challenge proposed regulations by the federal Department of Health and Human Services (HHS). Favorable court decisions thwarted attempts by HHS to implement regulations requiring parental notification by federally funded family planning centers that provide prescription contraceptives to teenagers.

The League has joined with other pro-choice organizations in continuous opposition to restrictions on the right of privacy in reproductive choices that have appeared in Congress as legislative riders to funding measures. In 1985, the League joined as an *amicus* in a lawsuit challenging a Pennsylvania law intended to deter women from having abortions. In 1986, the Supreme Court found the law unconstitutional, upholding a woman's right to make reproductive choices.

In 1986, the League opposed congressional provisions to revoke the tax-exempt status of any organization that performs, finances or provides facilities for any abortion not necessary to save the life of a pregnant woman. In 1987, the League unsuccessfully opposed regulations governing Title X of the Public Health Service Act. The League reaffirmed that individuals have the right to make their own reproductive choices, consistent with the constitutional right of privacy, stating that the proposed rule violated this right by prohibiting counseling and referral for abortion services by clinics receiving Title X funds.

In 1988 and 1990, the League urged congressional committees to report an appropriations bill for the District of Columbia without amendments limiting abortion funding. The League also urged support of 1988 legislation that would have restored Medicaid funding for abortions in cases of rape or incest.

The League joined in an *amicus* brief to uphold a woman's right of privacy to make reproductive choices in the case of *Webster v. Reproductive Health Services*. In July 1989, a sharply divided Supreme Court issued a decision that severely eroded a woman's right of privacy to choose abortion. Although *Webster* did not deny the constitutional right to choose abortion, it effectively overruled a significant portion of the 1973 *Roe* decision. The *Webster* decision upheld a Missouri statute that prohibited the use of public facilities, employees

** *Impact on Issues: A Guide to Public Policy Positions*, 2004-06, LWVUS, Washington, DC

or funds for counseling, advising or performing abortions and that required doctors to conduct viability tests on fetuses 20 weeks or older before aborting them.

The League supported the "Mobilization for Women's Lives" in fall 1989. Also in fall 1989, the League joined an *amicus* brief in *Turnock v. Ragsdale*, challenging an Illinois statute that would have effectively restricted access to abortions, including those in the first trimester, by providing strict requirements for abortion clinics. In November 1989, a settlement in the case allowed abortion clinics to be defined as "special surgical centers," and to continue to perform abortions through the 18th week of pregnancy without having to meet the rigorous equipment and construction requirements for hospitals.

In 1990 the LWVUS joined the national Pro-Choice Coalition and began work in support of the Freedom of Choice Act, designed to place into federal law the principles of *Roe v. Wade*.

In 1990-91, the League, in *New York v. Sullivan*, joined in opposition to the "gag rule" regulations of the Department of Health and Human Services that prohibit abortion information, services or referrals by family-planning programs receiving Title X public health funds. In June 1991 the Supreme Court upheld the regulations, and Leagues across the country responded in opposition. The LWVUS urged Congress to overturn the gag rule imposed by the decision.

The 1990 League convention voted to work on issues dealing with the right of privacy in reproductive choices, domestic and international family planning and reproductive health care, and initiatives to decrease teen pregnancy and infant mortality (based on the International Relations and Social Policy positions). The LWVUS quickly acted on a series of pro-choice legislative initiatives. The League supported the International Family Planning Act, which would have reversed U.S. policy denying family planning funds to foreign organizations that provide abortion services or information. The LWVUS opposed the Department of Defense Policy prohibiting military personnel from obtaining abortions at military hospitals overseas and supported the right of the District of Columbia to use its own revenues to provide Medicaid abortions for poor women.

Throughout 1991 and 1992, the League continued to fight efforts to erode the constitutional right of reproductive choice by supporting the Freedom of Choice Act and attempts to overturn the gag rule. In coalition with 178 other organizations, the League also filed an *amicus* brief in *Planned Parenthood of Southeastern Pennsylvania v. Casey*, arguing that constitutional rights, once recognized, should not be snatched away. In June 1992, the Court decision in *Casey* partially upheld the Pennsylvania regulations, seriously undermining the principles of *Roe*. In response, Leagues stepped up lobbying efforts in support of the Freedom of Choice Act. The 1992 LWVUS convention voted to continue work on all domestic and international aspects of reproductive choice.

During 1993, the League continued to support legislative attempts to overturn the gag rule. Late in 1993, President Clinton signed an executive order overturning it and other restrictive anti-choice policies. The LWVUS continued to work for passage of the Freedom of Choice Act and against the Hyde Amendment. The LWVUS supported the Freedom of Access to Clinic Entrances (FACE) Act, a response to escalating violence at abortion clinics. The FACE bill passed and was signed by the President in 1993.

Throughout the health care debate of 1993-94, the League pressed for inclusion of reproductive services, including abortion, in any health care reform package. In 1995, the League joined with other organizations to propose amendments denying Medicaid funding for abortions for victims of rape and incest.

In 1998, the LWVUS also opposed the "Child Custody Protection Act," federal legislation designed to make it legal for an adult other than a parent to assist a minor in obtaining an out-of-state abortion. The League also worked against proposals that would ban late-term abortions as interfering with a women's right of privacy to make reproductive choices.

In spring 2000, the LWVUS joined an *amicus curiae* brief in *Stenberg v. Carhart*. The brief urged the Supreme Court to affirm a U.S. Court of Appeals ruling that a Nebraska law criminalizing commonly used abortion procedures was unconstitutional. The Court's affirmation of the ruling in June 2000 was pivotal in further defining a woman's right to reproductive freedom.

As Congress continued to threaten reproductive rights with legislative riders to appropriations bills, the League contacted congressional offices in opposition to these back door attempts to limit reproductive choice. Throughout the 107th Congress, the League signed on to group letters opposing these riders and supporting the right to reproductive choices.

In 2002, the LWVUS lobbied extensively against attempts to limit funding for family planning and, in 2003, the League lobbied the House to support funding for the United Nations Population Fund, which lost by just one vote. The League strongly opposed the passage of the so-called Partial-Birth Abortion Act in 2003, but it was passed by Congress and signed into law by President Bush.

In March 2004, the LWVUS lobbied in opposition to the Unborn Victims of Violence Act (UVVA), which conveys legal status under the Federal Criminal code to an embryo and fetus, but Congress passed the bill and the president signed it. The law was challenged and is currently in the courts.

The League was a cosponsor of the March for Women's Lives held in Washington, D.C. on April 25, 2004. The March demonstrated widespread support for the right to make reproductive choices and included many delegations of state and local Leagues.

THE LEAGUE'S POSITION

Statement of Position on Public Policy on Reproductive Choices
Announced by National Board, January 1983

The League of Women Voters of the United States believes that public policy in a pluralistic society must affirm the constitutional right of privacy of the individual to make reproductive choices.



AMERICAN
ASSOCIATION OF
UNIVERSITY
WOMEN

TESTIMONY ON HB 1466
March 13, 2007

Chairman Nething and Members of the Senate Judiciary Committee:

My name is Connie M. Hildebrand, state legislative director of the American Association of University Women. I am providing testimony in opposition to HB 1466.

The U.S. Supreme Court's 1973 ruling in *Roe v. Wade* legalized abortion for all women and found it to be a constitutionally protected "fundamental right." The Court determined that the right to privacy extends to a woman's right to choose. AAUW stands behind a woman's right to choose as articulated in the *Roe* decision.

AAUW supports the right of every woman to safe, accessible, and comprehensive reproductive health care and believes that decisions concerning reproductive health are personal and should be made without governmental interference. AAUW trusts that every woman has the ability to make her own choices concerning her reproductive life within the dictates of her own moral and religious beliefs. AAUW members have made this position an action priority since 1971. (36 years)

AAUW believes that individuals should be given complete and accurate information about their reproductive health and family planning options, including but not limited to, the option of abstinence, pregnancy prevention, and sexually transmitted disease prevention. Only with reliable and complete information about their reproductive health can people make informed and appropriate decisions.

We ask the committee for a Do Not Pass on HB 1466.

Thank you for the opportunity to provide testimony in opposition to HB 1466 on behalf of North Dakota's 300 members and 100,000 national members of the American Association of University Women.

American **Association** of **University Women** promoting **education** and **equity** for women and girls

Association | Educational Foundation | Legal Advocacy Fund

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Reproductive Rights

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AAUW's Position On

- ▶ Abstinence Only Education
- ▶ International Family Planning

AAUW supports the right of every woman to safe, accessible, and comprehensive reproductive health care and believes that decisions concerning reproductive health are personal and should be made without governmental interference. AAUW trusts that every woman has the ability to make her own choices concerning her reproductive life within the dictates of her own moral and religious beliefs. AAUW members have made this position an action priority since 1971.

AAUW believes that individuals should be given complete and accurate information about their reproductive health and family planning options, including but not limited to, the option of abstinence, pregnancy prevention, and sexually transmitted disease prevention. Only with reliable and complete information about their reproductive health can people make informed and appropriate decisions.

(3/8/07)



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Att #1
3-13-07

**HB 1466 – Opposition Testimony RE: State Policy on Abortion
March 13, 2007**

Chairman Nething and Members of the Senate Judiciary Committee:

My name is Connie M. Hildebrand. I am representing three separate associations in my testimony today in opposition to HB 1466, which relates to North Dakota state policy on abortion. Separate written testimony from each organization has been distributed to the committee. (AAUW-ND, LWV-ND, NASW-ND)

In the long history of the American woman's efforts to obtain and maintain "choices" for herself, she has had to struggle:

- for the right to choose to economically support herself – to hold a job
- for the right to obtain education and advanced education – to access a better job
- for the right to choose not to marry or, for the right to choose whom to marry
- for the right to vote
- to exercise her right to reproductive health and reproductive choice options

Senator Nething and Members of the Senate Judiciary Committee ...

These are not Rights, these are not Choices that North Dakota women will diminish, nor relinquish.

All three organizations I represent formulate their public policy positions through a duly elected, diverse membership, at biennial or triennial national conventions. They study, research and debate the issues, determine their public policy stance on those issues through a voting process, and then publish those materials, kind of like, you do here.

Continued Public Policy Statement in Support of:

| | | |
|--|---------------------|----------|
| American Association of University Women | Reproductive Choice | 36 years |
| National Association of Social Workers | Reproductive Choice | 32 years |
| League of Women Voters | Reproductive Choice | 24 years |

We are all a part and parcel of Women's History and, you got it we just don't quit.

The ND-AAUW, the ND-LWV, and the ND Chapter of NASW, ask this committee for a Do Not Pass on HB 1466, and we do thank you for the opportunity to provide testimony in opposition to this bill.

*** participate in amicus curiae (friend-of-the-court) briefs on critical social and professional issues

Att # 1
3-21-07

House Bill 1466

I think that this bill ~~as written~~ is bad public policy. The effective date is murky at best. The bill, as written, would have the Act only become effective on the date the attorney general certifies to the secretary of state and the legislative council that as a result of new decisions by the Supreme Court of the United States, it is reasonably probable that this Act would be upheld as constitutional.

What does this mean? Even the proposed amendment is confusing at best. I think the language is vague and may not be upheld. Do we really want to leave this decision to one person, the attorney general, to certify that it is reasonably probable the Act will be upheld? How will he or she be able to do that with any degree of certainty? As a matter of policy, do we want to pass a law that may become effective at some unknown future date, perhaps two years from now, perhaps twenty years from now, with the further requirement one person review it to decide if it is "reasonably probable" that the Act would be upheld? What does "reasonably probable" mean? Who makes that determination? With changing science and technology, what if there are advances in science and medicine that change the entire medical front in this arena? Then what?

If the law changes, a bill can then be introduced to try and address those changes and the legislative process could work as designed with all the facts. Regardless of one's views about abortion, this bill fosters bad public policy for the people of our state and I cannot support it for that reason alone.

I also oppose this bill and the amended version because ^{as I read it} it provides no exception for ^{the health of the mother} rape or incest and also only allows the doctor to raise, as an affirmative defense, after he or she is charged criminally, the defense that the abortion was necessary in the professional judgment and was intended to prevent the death of the pregnant female.

The records reflect that safe, legal abortion has resulted in a dramatic public health benefits, and better healthcare for American women since 1973. Banning abortion in North Dakota would return the women of North Dakota to the days before Roe v. Wade when abortions occurred illegally in great numbers and resulted in unsafe procedures and high death tolls. This legislation intrudes upon the doctor patient relationship but even more troubling, it threatens the lives and health of the women of North Dakota.

The current bill has extremely vague language in many sections. It could capture almost any interaction with a person seeking information about abortion, even if the abortion never took place. It creates an exception for people such as a nurse, technician or secretary only if it is clear they were acting at the direction of the physician. Otherwise a person, including the pregnant woman, could be found liable under the attempted abortion provision.

The bill also gives numerous individuals the right to bring the lawsuit. Giving a father the right to veto the woman's decision to terminate the pregnancy could exacerbate an abusive relationship if the woman was forced to consult with an abusive man about what

she should do with her own body. There could also be problems giving parents veto power over a pregnant minor's decision. What happens if the minor is a victim of incest? This bill ~~protects~~ ^{ended with} the perpetrator over the victim.

The U.S. Supreme Court's 1973 ruling in Roe v. Wade recognized the right to privacy extends to a woman's right to choose. The Court's decision legalized abortion and found it to be a constitutionally protected fundamental right. I think this bill, in its original form, or as amended, is bad public policy, is contrary to current law, and should not be passed.