



2007 HOUSE JUDICIARY

HB 1489

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1489

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 1/22/07

Recorder Job Number: 1525

Committee Clerk Signature *A. Penrose*

Minutes:

**Chairman DeKrey:** We will open the hearing on HB 1489.

**Rep. Dan Ruby:** Sponsor of bill. I'm here to offer my version of how I think ND's law dealing with abortion should be. You have that bill before you. It is similar in many respects to the bill I offered last session. There have been some changes made to this. Many of those changes are improvements. One area deals with some of the opposition that was heard last session. This is a pretty simple bill. This basically sets clearly that any person, who intentionally destroys, terminates the life of a preborn child is a class AA felony. That is a consistent law that we have on the books for murder in ND's laws. As I stated last session, this also is similar to a penalty that you would be given if you murdered a pregnant woman, you could be charged with two AA felonies, as was the case in California a couple of years ago. This simply gives the same status to the unborn child as a separate human being from the mother, as any of us walking around. I think that is consistent and correct. I think it is only just. This bill toughens up the penalties a little bit. As technology advances, whether for better or worse, there are new ways of performing abortions through drugs, other devices, other things that may be self-induced or self-inflicted. This adds a provision that says "a person who knowingly administers to, prescribes for, or sells to any pregnant individual, with a specific intent of causing or

abetting the termination of a preborn child is guilty of a class AA felony as well. There has been criticism that this is going to affect and attacks the most common forms of birth control. My understanding of birth control is to prevent pregnancy not to end it. So the intent is to end the pregnancy, this is where that makes that distinction. Then last session there was a lot of discussion that the mother could be included in the penalty for a class AA felony. This bill does not explicitly expressly include or exclude the mother. The reason for the opposition to that last session, because the position of a couple of groups that the mother is a secondary victim in this process. As I asked for more understanding of that, and a little more clarification as to why, I was told that because of the manipulations of society, of people in the medical field, or family members that women could be coerced or pressured into doing this. Another level has been added to this bill, that a person who intentionally or knowingly, aids, abets, facilitates, solicits or incites a person to intentionally destroy or terminate the life of a preborn child is guilty of a class C felony. I think that addresses anybody who would intentionally pressure or coerce a woman to have an abortion. With the mother being a secondary victim to this, and being included in the penalty, the reason I don't have it included or excluded, is because according to the information I have received, I have been told that even in states where there laws that expressly included the mother on any penalty, whether it was a lesser degree or the same, she was never prosecuted. Nobody has ever been able to find where a mother has been prosecuted for having an abortion. So if the language remains as it is, I don't see a problem with that. I don't think prosecutors are going to be going after the mother, when they need her testimony to go and convict the person who is performing the abortion.

**Rep. Klemin:** The other bills that we had, refers to the term "unborn" child, whereas in this bill it is referred to as "preborn" child. Is there a reason why you specifically used preborn child rather than unborn child?

**Rep. Dan Ruby:** I don't have any agenda or reason why the terms were used. There may be some others that are more legal minded that may have some reason for that. I don't see any real difference, in unborn or preborn child; it is the same to me.

**Rep. Delmore:** With the use of the term "preborn", I'm just wondering if this bill does indeed, cover birth control as well as abortion. I need clarification as to what is included in the term "preborn".

**Rep. Dan Ruby:** I would assume that before we could end a life of an unborn and preborn child, there would have to be life there, and if contraception prevented the pregnancy to begin with, there wouldn't be life there. I don't see how they could go after contraception, unless the intent of that contraception, or as some call it, the emergency contraception (which would mean that there is probably already a pregnancy), and it would terminate that, that is the intent to make sure that doesn't happen. The most common is the RU486, the morning after pill, as it's called. I guess if they were taking a contraception beforehand, that prevented the pregnancy, there is no proof that there was a life or pregnancy in place at the time. It may even be difficult with the emergency contraception to prove that there was already a life there. As devices and drugs develop that we'll have to deal with this in another term, that's the intent of this legislation, is to prevent that.

**Rep. Wolf:** Are you going to be getting a fiscal note.

**Rep. Dan Ruby:** In the two sessions that I've introduced similar bills, there has never been a fiscal note that has been required by any agencies that would be affected. Generally, when you introduce a bill that would have a fiscal impact, there would be a fiscal note that would be attached. I requested one but one hasn't been required before.

**Rep. Wolf:** If you are going to be incarcerating people who are committing abortions, there may be an impact on the prison system in the State.

**Rep. Dan Ruby:** I guess with our laws that deal with crime, we always assume that there is going to be a certain amount of court costs, costs to the penal system. Those are all costs that society accepts that are necessary to protect the citizens, just as we have for murder, DUI, etc. As far as a significant number of people that will end up prisons, I really don't see that there would be a huge increase in the volume of people that are going to be tried. I think most people will avoid being considered a criminal and would cease doing what they are doing at the time.

**Rep. Dahl:** Could you clarify again for me why you did not include or exclude mothers, but then you also mentioned that in cases where mothers weren't charged, would that still be an option left up to the court.

**Rep. Dan Ruby:** It is left open for some interpretation in that there may be a case where it may be needed, and that would be some level of penalty; realistically I don't see why that would be a problem because when they expressly added language that dealt with that, none were ever prosecuted. The side that says that we should make sure that it expressly excludes the woman, there is concern that it shouldn't be there, because it hasn't been a problem in the past. But to have a simple bill, that just makes the case that we are being consistent of treating the life of that baby the same as we would after it is born, I think that is what we are looking for at this time. I don't know of any simpler way of saying that. It is just left up to the prosecutors and history has shown that before Roe vs. Wade before 1973, when states did have the different levels of penalties, some had them and some didn't. But when they did, it was never used for the mother.

**Rep. Klemin:** On this particular issue, do you think that a woman that voluntarily aids in the abortion would fall within the scope of aiding and abetting or facilitating the abortion, such as make them liable to a Class C felony.

**Rep. Dan Ruby:** To be honest with you, possibly. That is a lesser penalty, but possibly. I don't know when that would ever be used, because of the past experience. Quite possibly, and that's why it is stated the way it is.

**Chairman DeKrey:** Thank you. Further testimony in support.

**Rep. Chuck Damschen:** Support. I have some wording for an amendment to be drafted which I haven't had a change to do yet. It would change the wording for the mother, that the crime would be a class B misdemeanor. I think every one of the sponsors finds that acceptable. I would like to make a couple of comments. Usually the arguments center on choice and there are some choices that can be made, before abortion becomes an option. The other thing that really bothers me about that is how many rights anyone can exercise if they don't have the basic right to be born. There is some debate on when life begins, whether it begins at conception or not. I don't think there is anyone in the room whose life didn't begin with conception. I would say that my belief is that life begins at conception. If there is a question in our minds about that, I think that, with very few exceptions, medical procedures err on the side of life. You don't go into the emergency room and want to hear somebody say; you might not make it, so let's give you an injection and let you die. I would encourage this committee to support this bill.

**Chairman DeKrey:** Thank you. Further testimony in support.

**Tim Lundgren, State Director of ND Life League:** I here to speak in favor of HB 1489. I've been working on this bill for two decades now; starting quite some time ago and we worked through various penalties and so on and I did hand out a brochure. HB 1489 is written for the purpose of challenging the 1973 Roe vs. Wade ruling. This ruling identified the weakness in pro-life thoughts throughout the country at the time of the court's ruling. I think obviously the ruling was stretched and in order to bring about the decriminalization of abortion. Justice

Blackman wrote that pro-life laws were inconsistent in treating unborn children as persons in law, by either allowing some abortions, i.e. exceptions for various reasons or by having a lesser or no criminal punishment for the pregnant mothers to obtain an abortion. It's obvious if we want to protect life and protect the unborn children, this is the criteria that Justice Blackman and the Supreme Court, as a body, told us that we have to do. We have to protect each child without exception and the penalty must be consistent. In ND we had a class A misdemeanor prior to 1973. That is a historic or at least history would support that in ND that is something that we had previously. We are attempting to pass a bill that will provide us with specific criteria outlined in Roe v. Wade asking the court to recognize the unborn child as a legal person, afforded the same legal protection in law that we have as living persons. This was our reason for the language in this bill, so that there are no exceptions and that the penalty is consistent. By specifically stating the maximum penalty for the pregnant mother, the bill could not be construed or at least deemed to the extent possible, to be too harsh. I am asking the committee to amend this bill, and specifically state that the maximum penalty be a class A misdemeanor. The bill is actually, technically exactly what the Supreme Court asked for, but because we have a significant growth of people that support outlawing abortion, who are as concerned about the penalty, that's our reason for supporting the class A misdemeanor is to accommodate them without violating the criteria that Justice Blackman set forth, that there cannot be any abortions allowed and that the penalty must be consistent. I urge you to consider carefully amending this. Rep. Damschen is planning on writing an amendment that he will bring here, and I would urge you to give it carefully consideration towards moving this bill, while maintaining the principles we need, to challenge it at the Supreme Court level, but at the same time gathering as much support as possible from the supporters of those who value and respect human life. You will most likely hear testimony asking for no penalty or to

maintain the current language. By setting the maximum penalty of a class A misdemeanor, you are meeting the requirements of Roe, I believe at a minimum and we're addressing the concerns of those who want no penalty at all. When talking about a penalty, for those who want no penalty, I want to take a couple of minutes to address that, if I could. If abortion is outlawed, there should be a deterrent, to protect women and to protect the unborn child, both. If a mother is going to abort her child, basically the position of no penalty at all, means that you support legal abortion for women. I don't think that is the right option with the technology today, as Rep. Ruby, talked about, there is technology whereby women could actually induce abortion themselves with chemicals or devices or other means. That wouldn't afford total protection for preborn child; neither would it protect the mother as a deterrent. There may be those who will say that this bill is outlawing contraception. This is untrue, and I merely restate this for the record, the bill merely prevents the use of drugs or devices whereby the intent is to terminate or destroy the life of a preborn child. There also has been previous testimony on another bill today, parties that would like to amend the bill to allow abortions for a variety of reasons, such as rape or incest or to prevent the death of the mother, or to protect the life of the mother. Again, with the penalty, the Roe opinion set the criteria for the preborn child to be acknowledged by the courts as a person, the law must not allow any abortions. So therefore, seeing as this bill's intention is to change the Roe vs. Wade ruling, this is the requirements, that there must not be any abortions allowed. I think that most people understand that with rape or incest, although we have empathy for the mother for the circumstances, there is still another human being there to be considered and protected. Where it gets even more difficult, is with protecting the life of the mother, and with that I would like to say that when one allows abortion to protect the life of the mother, or prevent the death of the mother, abortion grinds up the baby to pieces. The way most abortions are done today, is the suction evacuator which

tears the baby apart, limb from limb. It's quite another story, as a secondary effect unintended, that a treatment for a mother would have an unintended effect cause the death of an unborn child. That way the baby might die, but you're doing your best to save them both in the case, which this bill does require, and it's not something whereby you really need that exception in there; because it's not abortion if you treat the mother and it's unintended that the child should be aborted. So that is not abortion, so that is the reason that there isn't a need for life of mother and Justice Blackman specifically mentions this. This is the requirement that we need to make. With that, I hope I made myself clear. (see attached testimony).

**Rep. Griffin:** I know you say that to overturn Roe vs. Wade, that there cannot be exceptions and that the penalty needs to be consistent. What happens in cases where they banned late term abortions and of course, decided that to hold them constitutional, that they have had exceptions? Would you perceive that for the Supreme Court to overturn Roe that those same exceptions would have to be in place?

**Tim Lundgren:** In answer to that, it is true. But there has not been a law passed yet that I'm aware of that does not include exceptions for certain cases which sets a different criteria. So a lot of times you might see the Supreme Court and they might reject this, and that is true. There is one thing that hasn't been tried yet, because each bill that goes before them, has included these exceptions and our reason for doing this, is that maybe the court will take it and look at it because it is different than these other cases, because they don't meet the criteria that the Roe vs. Wade ruling set forth. That is that you don't allow any abortions. And when they don't meet it, they can be rejected straight out, based on that. They could throw it back to the States, just saying that. It's true that you could reasonably argue that their reasoning for rejecting the bills might not give this a very good chance, but on the other hand, we have to try

it. That's what the court asked for and there are states that are working on this collectively around the country and this is one that I think needs to be tried.

**Rep. Klemin:** Thank you. Further testimony in support.

**Tom Freier, ND Family Alliance:** (see attached testimony).

**Rep. Delmore:** You would support criminalizing the mother, charging with at least a misdemeanor or felony.

**Tom Freier:** I think we'd want to make sure that we understand the language, before we commit ourselves to that. Your terms of criminalizing I think are a little bit greater than I think we're interested in. We believe that if we look at the primary source of our protection here, being that preborn, we can also look at the woman, the mother in this case. The protection for that woman as well. I think we can accomplish all of those things.

**Chairman DeKrey:** Thank you. Further testimony in support of HB 1489.

**Peter Crary:** (see attached testimony). Give all 14<sup>th</sup> amendment rights to the preborn.

**Chairman DeKrey:** Thank you. Further testimony in support.

**Sharon Wald:** Support. My battle with this has been four decades. Because as a young medical technologist working at St. Alexius Hospital in 1961 when the pill came out, the magic pill that was going to fix everything. Only one doctor in Bismarck wouldn't prescribe it and that was Dr. Cleary. The emergency room was right down the hall and every night there could be a rape case coming in and there was a rape protocol that was moral. We didn't need the pill; we didn't the emergency contraceptive, which is such a lie, such a deceptive term. They had a spermicidal douche, because they can kill that sperm, there's nothing wrong with that. They can even scrape the uterus so that it can't implant if there quite sure that ovulation has not

taken place and that there's no baby there. There are 12, 13, 14 15 year old girls going into the Prairie Rose Center in Dickinson, to get their morning after pill. Their parents don't know,

they're not given the right to know. You take all the parental rights away and hide behind privacy. These little girls are having abortions. They're starting to get facial hair because their hormones are getting so messed up. This has got to stop. I know that there are powers that be in this state, in both parties, that do not want to take this to the Supreme Court, they do not want to start a case. We certainly know that the pharmaceutical companies that are making billions of dollars and these other companies making these devices, making billions, they don't want to stop the killing. Somebody has to do something about this. In this state, you know that there is a pervasive pro-life view. We're begging you, have the courage to do it. Send it to the Court. Let's show the nation that ND has great people. We are killing unborn people.

**Chairman DeKrey:** Thank you. Further testimony in support.

**John Knowle:** I support this bill. We are not even giving the unborn children a chance to come into our society and make it a better society. We're not even giving them a chance. I think this is ridiculous. You people come from different communities. You know that school boards are having problems because of the number of unborn children being killed. We are in a war against people who have no respect for life.

**Chairman DeKrey:** Thank you. Further testimony in support.

**David Hanson:** (see attached testimony). Support.

**Chairman DeKrey:** Thank you. Further testimony in support.

**Nadia Smetana:** I am in support of this bill. I am a nurse that works in Minot and I have three grown children. The main reason I am in support of this bill, because it is time we end the double standard of how we treat humans in our country. We have good laws that protect the life and liberties of persons from birth to death. But we have a different standard when it comes to the unborn. This standard leaves the protection up to the woman and her doctor, and maybe her family. It is up to their opinion, their personal preference, whatever their

convenience and I do realize and don't minimize the impact that an unwanted pregnancy can have. I think that we need to have more measures in place to support women who do face an unwanted pregnancy to help them bring their child to term. I am not minimizing their anxiety or their problem. I don't think that they have the right to terminate that pregnancy, this is not just a piece of tissue growing inside of them. I am a nurse, I work at the campus center in Minot. When I think of a piece of tissue I think of something that is diseased that is taken out of a person. If you take a tumor out of a person or appendix taken out of a person, that tissue has the same DNA as the mother. It was a part of her body. A preborn child is not a part of a woman's body, it is located in the woman's body and it is dependent on that woman for life, but it isn't a part of her life or a piece of tissue. It has a different blood type, the blood of the mother and the blood of the fetus does not mix, the oxygen and nutrients are passed between but the blood supply is not mixed. There is different genetic makeup, it could be different gender, and these are biological facts. These are not personal opinions, so why do we leave the protection of the unborn up to the preference of someone when it isn't her body. I think it's time to end this double standard and offer the same protection that we do for born people to the preborn. This is not based on my personal opinion either. We often hear that, if you're against abortion, don't have one. But why restrict other people from having one. This is a very common viewpoint. But biology shows that this is not part of the woman's body. It is a separate human person that deserves the same protection of liberty and life, such as born people have. The evidence that shows that there are only four differences between the child inside the mother and the child that is already born. One of those is the acronym called SLED that helps identify these differences. None of these differences are big enough that we shouldn't protect the unborn child. S stands for size; L for level of development; E for environment, only 6" are between being born and being in the womb; and D is the degree of

dependence on the mother. I think we have to come to terms in this country with what really is. An unborn child is just as valuable as a born person. I think the earlier bill this morning (HB 1466) is a wimpy bill, I think we need to have the courage to do what's right, even though there isn't a consensus right now from the courts. I ask that the pro-life organizations have the courage to do it, even if we don't have the money to defend it in court. I think all of that will be provided if we do what is right. I would like to address the issues of rape and incest. I do not feel that there should be an exception in this law for rape and incest. I do sympathize with victims of rape or incest. Why add to the tragedy by destroying a human life. I don't think that for most women, that that would be a very healing thing. I think sometimes if you add to the tragedy by destroying the child, it could be a destructive thing for the woman instead of a healing. I think a lot of that would depend on how it's presented to her and the support she would receive to carry that child to term, give it up for adoption if she wishes. We certainly have many people that have been conceived by rape that have gone on to become productive citizens. We should the child pay capital punishment for the crime of their father. We don't do that for any other crimes.

**Rep. Delmore:** Do have any friends or family that this has happened to.

**Nadia Smetana:** I know of people yes. But not in my family, no.

**Rep. Onstad:** If this bill is passed, do you think that abortion will go underground.

**Nadia Smetana:** That could happen. Before Roe vs. Wade, there were backstreet abortions and the numbers were much less than the propoganda said. I think doctors would be very reluctant to perform abortions if this passed. I think if we had good services in place, to help women who had an unwanted pregnancy, this would help.

**Chairman DeKrey:** Thank you. Further testimony in support.

**Karen Hanson:** Support. I believe this is a stronger bill than the previous bill, HB 1466, and stand in support of it. I did not have a formal testimony written out. I just jotted down some notes. Science says that the DNA is different between the mother and child, also such as different heartbeats, etc. Many abortions are not safe right now, but women still get them. We have five children of our own, and a couple of miscarriages. We did miscarry in January of 2000, at approximately 12 weeks. We saw the amazing details of the muscles and how they worked together, we saw all parts of the little baby. St. Alexius were so kind to me and allowed me to hold the baby, and the baby fit into my palm, 30 grams; equivalent to 30 paper clips in your hand and 11 cm long. Nothing is added to the baby except time and nutrition. Everything is already in place when they are conceived. After conception, the baby knows the mother's voice in the womb. This is the opportunity to do the right thing for ND. This is a historic situation. ND could be a leader and make a difference. Doing something worthwhile is not necessarily easy. Let's protect the most vulnerable population.

**Chairman DeKrey:** Thank you. Further testimony in support.

**Sharon Wald:** I would like to address the concern about the back alley or underground abortions. That has always been the case. If a woman came in for hemorrhaging and you thought perhaps that they had had an abortion, you didn't know. You had to treat her, the woman and the baby, that you are going to lose it. You try to save it but if you can't, you can't. That can't be a concern. Breaking the law has always happened. You have to have it in the law to protect life.

**Chairman DeKrey:** Thank you. Further testimony in support.

**Stacey Pflieger, ND Right to Life Association:** (see attached testimony).

**Rep. Koppelman:** Your reference to the effective date, are you saying that you would like to see a trigger mechanism in the bill, in order to support it, or what are the differences.

**Stacey Pflieger:** Yes.

**Chairman DeKrey:** Thank you. Further testimony in support.

**Christopher Dodson, ND Catholic Conference:** Support. It is our understanding that the bill was not to punish the woman in anyway and we would be supportive of an amendment to make that clear and then we'd be able to support the bill.

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

**Tim Stanley, Planned Parenthood:** (see attached testimony).

**Rep. Kretschmar:** If HB 1489 were to amended to include what is being called a trigger mechanism, would you comment then on the constitutionality.

**Tim Stanley:** Then it would still be unconstitutional but I think that they would still be able to pass the law, it would still go into effect as there is another state that has a similar law as well on the books and they are called trigger mechanisms so that it would only be enacted upon the overturning of Roe, or when the Supreme Court rules such as this law would be found to be constitutional.

**Chairman DeKrey:** Thank you. Further testimony in opposition.

**Katy Korynta:** Opposed. There are many reasons why people are opposed to this bill, and I agree with them. One thing growing up is that this is America. We are all free and freedom of religion, so this isn't about opposing people's beliefs and if they believe in God and think they are offending or playing God by having an abortion; then they don't have to do that. But others don't, we have that freedom of religion. We also have freedom of choice.

**Chairman DeKrey:** Thank you. Further testimony in opposition. All those who registered opposition in the first hearing (HB 1466) copies of your testimony will be placed in the record.

**Luwann Goetsch:** I am opposed to HB 1489 because of the language in it about class AA felony for the mother. I am a Catholic and there should be a penal penalty plus an excommunication. I don't think that young girls should be treated the way this bill is stated. I believe there should be some punishment so that it would be a deterrent. If women knew that they were going to be punished, that it would be some sort of a crime, they wouldn't coerce these young women into having abortions; but at the same time, it needs to have some punishment. There are laws in this state that children can go to places where they can get RU486 without parental permission. I don't think it's right that the parents don't know. We need to discourage our kids from doing the things they do to get pregnant.

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

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1489

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 1/24/07

Recorder Job Number: 1847

Committee Clerk Signature

*Naun Penrose*

Minutes:

**Chairman DeKrey:** We will take up HB 1489.

**Rep. Meyer:** I think that we should amend it so that the woman isn't given a Class AA felony. I just don't think it's right to criminalize the woman.

**Rep. Kingsbury:** Didn't Rep. Damschen talk about making that a Class A misdemeanor.

**Chairman DeKrey:** Here is the Damschen amendment (#1) and another amendment (#2) (read the attached amendments).

**Rep. Onstad:** I move a Do Not Pass without any amendments.

**Rep. Griffin:** Seconded.

**Chairman DeKrey:** Discussion.

**Rep. Koppelman:** Just a question, we just looked at the amendments. If it is the intention of some to criminalize the woman, shouldn't we adopt that amendment to change that.

**Chairman DeKrey:** Nobody moved it, and we have a motion on the floor. I would only say that the people who brought this bill were quite adamant about the penalty phase of it, because they said the Justice that wrote the opinion, it said the reason why this bill is unconstitutional, is because we didn't have like penalties for all people involved. So, obviously one of these two

amendments would soften the bill up, but then it obviously wouldn't be the intent of the sponsors.

**Rep. Klemin:** Isn't this the bill that was introduced so that this could be challenged all the way up to the US Supreme Court. The whole idea is to overturn Roe vs. Wade. So there would probably be a little money involved here too.

**Rep. Koppelman:** Is this essentially the bill that we looked at last session.

**Chairman DeKrey:** This is the bill that the Legislature defeated overwhelmingly last session.

Further discussion on the bill? Clerk will call the roll.

**13 YES 0 NO 1 ABSENT DO NOT PASS CARRIER: Rep. Wolf**

70509.0301  
Title.

# /  
Prepared by the Legislative Council staff for  
Representative Damschen  
January 22, 2007

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1489

Page 1, line 13, after the underscored period insert "A pregnant individual who intentionally destroys or terminates the life of her own preborn child is guilty of a class A misdemeanor."

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1489

Page 1, after line 15, after period insert: "Nothing in this Act subjects the pregnant mother upon whom an abortion is performed or attempted to any criminal conviction and penalty."

Renumber accordingly

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

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1489

House JUDICIARY Committee

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Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Not Pass

Motion Made By Rep. Onstad Seconded By Rep. Griffin

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	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Wolf

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

**REPORT OF STANDING COMMITTEE (410)**  
January 24, 2007 4:47 p.m.

**Module No: HR-16-1156**  
**Carrier: Wolf**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1489: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO NOT PASS**  
**(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1489 was placed on the**  
**Eleventh order on the calendar.**

2007 TESTIMONY

HB 1489

**Testimony of Tim Lindgren  
In Favor of HB 1489  
Judiciary Committee  
January 22, 2007**

Honorable Chairman DeKrey and members of the Judiciary Committee, my name is Tim Lindgren, I am State Director of North Dakota Life League (NDLL) and I am here to speak in favor of HB 1489.

HB 1489 is written for the purpose of challenging the language of the 1973 Roe v Wade ruling. This ruling identified the "weakness" in pro-life laws throughout the country at the time of the court's ruling. Justice Blackmun wrote that pro-life laws were inconsistent in treating unborn children as persons in law, by either allowing some abortions, or, by having a lesser or no criminal punishment for the pregnant mothers who obtained abortions.

This was not the case in ND. In ND, we did have a class A Misdemeanor penalty for the pregnant mother. However, in Texas, where the Roe v Wade lawsuit originated, the pregnant mother was exempt from any punishment. We are attempting to pass a bill that will provide the specific criteria outlined in the Roe v Wade ruling in an attempt to ask the courts to recognize the unborn child as a legal person. Justice Blackmun also stated that if the courts ever recognize the unborn child as a legal person, the Roe v Wade ruling would fail apart. This is our reason for wanting to at least maintain a minimal penalty for the pregnant mother. By specifically stating the maximum penalty for the pregnant mother, the bill cannot be misconstrued or at least deemed (to the extent possible) to be too harsh.

I am asking the Committee to amend this bill and to specifically state that the maximum penalty (keeping in mind that prior to Roe v Wade, an exhaustive search throughout the country, could not identify a single prosecution of a pregnant mother) that could be applied to a pregnant mother be a class A Misdemeanor. You might ask, why have any penalty at all being some groups do not support the bill at least in part on account of the penalty? The reason is obvious. When writing a bill to challenge and overturn the Roe v Wade decision, we must at least at a minimum meet the criteria as outlined by the Court to determine that a preborn child is a legal person that is to have a penalty and not allow any abortions.

You will most likely hear testimony asking for no penalty or to maintain the current language that (though unlikely) could prosecute the mother with a class AA Felony. Technically, the criteria set by Blackmun virtually asked for the bill that is before you. *However, by setting a maximum penalty for the pregnant mother of a class A Misdemeanor, you would be 1) at a minimum meeting the requirements of Roe and 2) addressing the concerns of those who want no penalty at all (to the extent possible without undermining criteria set by the courts for the preborn child to be a person.)*

There may be those who will say this bill is outlawing contraception. This is untrue. This bill merely prevents the use of drugs or devices whereby the intent is to terminate or destroy the life of a preborn child.

There also may be parties that would like to amend the bill to allow abortion for a variety of reasons, i.e. rape, incest, or life of mother. Again, as with the penalty, the Roe opinion set for the criteria and that criteria required that - for the preborn child to be

acknowledged by the courts as a person - the law must not allow any abortions. I urge you to NOT pass any amendments as such to this bill.

Finally, I conclude by telling you about a 16-year-old pregnant mother in New York. The father of her baby wanted her to have an abortion. She did not. The laws in New York, in North Dakota and in all fifty states in the country allow abortion. The father picked up this 16-year-old girl, drove her to a secluded location in the country and beat her and his own preborn child to death. This 16-year-old girl had the courage to give her life for the life of her own preborn child and the child of the murderous father.

I am asking you to have the courage to amend this bill stipulating a maximum class A Misdemeanor penalty for the mother and then give a DO PASS to the bill that will send to the Supreme Court a bill that meets their criteria for determining that preborn children are legal persons under the law.

May the law of God guide you as you deliberate, discuss and vote on this matter.

Respectfully, thank you for your time.



North Dakota  
**FAMILY  
ALLIANCE**

DEDICATED TO STRENGTHENING FAMILIES

*A Trusted Voice*

*Tom D Freier*  
EXECUTIVE DIRECTOR

**House Judiciary Committee  
HB 1489  
January 22, 2007**

Mr. Chairman and members of the House Judiciary Committee, I am Tom Freier, and I represent the North Dakota Family Alliance.

First of all, thank you for hearing these four bills dealing with this very sensitive and important issue.

If as a result of these hearings and ensuing legislation, one pre-born human life is saved, I would count our efforts as a success. If many pre-born human lives could be saved, it would be absolutely the greatest, and if in the future, all pre-born human lives could be protected; our legacy would be in place for generations to come!

Even though we agree to some extent with certain sections of all four bills you will be hearing this morning, I will be testifying on just HB 1489. We will work with this committee, sponsors, and other interested entities to help craft and advance legislation that will save pre-born human lives.

Where are we 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 the 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 pre-born human lives lost each year. That is not acceptable.

We believe that life begins at conception, and no one has the right to end that new human life. This bill sets the punishment for someone who ends that new human life. While we agree the punishment needs to be set, the most important issue is to protect the rights and life of that pre-born human being. In addition to our core beliefs, we believe advances in science prove that a new human being is present from conception.

While some would warn of potential litigation, costs to the state, and eventually being rebuked by the Supreme Court, I would suggest we need to carefully weigh these concerns. It is the role of the court to determine constitutionality, but it also the duty of the legislatures to set policy. And over the course of American history, courts have

reversed their decisions. Abraham Lincoln in his 1861 inaugural address stated "if the policy of the government is to be irrevocably fixed by decisions of the Supreme Court...the people will have ceased to be their own rulers".

While some consider an abortion the compassionate alternative to an unwanted pregnancy, in most cases it has the opposite effect. The South Dakota Abortion Task Force found that abortion hurts women physically, emotionally, and spiritually.

Some consider the need to end an unwanted pregnancy because of a crime. But who are we punishing? Will ending the life of a new human being somehow serve as punishment for the perpetrator? Some would condone compassionately ending the life of those thought to be "abnormal". And yet what gives us the right to set the standards and criteria of who may live and who will not. What gives us the right to play God?

As we search for instruction on this such an important issue, let us review the words of Thomas Jefferson, "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.--- that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed..." Are not these words penned some 230 years ago, speaking directly to us, today?

Let me conclude as I began, all else is of little concern, if we fail to protect the most vulnerable among us—those new pre-born human beings. While all related issues are immensely important, none should overshadow or detract us from accomplishing the main goal of saving human lives. And if we are successful, our legacy will be in place for generations to come.

Thank you and I will be happy to take your questions.

## **LAW OFFICE**

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January 22, 2007

### **Statement of Peter B. Crary in Support of House Bill 1489**

**Presented to  
the North Dakota House of Representatives  
Judiciary Committee**

The first sentence of North Dakota House Bill 1489 embodies the core of this pro-life statute:

A person is guilty of a class AA felony if the person intentionally destroys or terminates the life of a **preborn** child.

Simply deleting the prefix "pre" from the word "preborn" would convert House Bill 1489 into a standard and uncontroversial homicide statute.

North Dakota's homicide law reads: "A person is guilty of murder, a class AA felony, if the person intentionally or knowingly causes the death of another human being." NDCC 12.1-16-01. House Bill 1489 will afford the preborn child the same statutory protection against murder currently provided to all other "human beings."

**Should the law afford less protection to a preborn child than to a born child?**

Right now state and federal law provide no penalty for intentionally murdering a preborn child, thus authorizing the continuing slaughter of 1200 preborn lives on North Dakota soil every year.

House Bill 1489 eliminates all prejudicial discrimination. A preborn child under House Bill 1489 is as fully protected against murder as a born child.

Some say that the penalty is too severe, that murder of a preborn child should be a lesser grade of criminal offense than murder of a born child—and that certain actors, such as the mother of the child, should be exempt from prosecution.

These individuals seek to cling to a degree of legal discrimination against the preborn in the hope of making the statute more palatable.

Such an approach not only perpetuates the discriminatory mentality upon which the abortion holocaust rests, but it makes it legally impossible for the statute to succeed in protecting the preborn from wanton murder.

In *Roe v. Wade*, Justice Blackmun, writing for the majority, stated:

When Texas urges that a fetus is entitled to Fourteenth Amendment protection as a person, it faces a dilemma. Neither in Texas nor in any other State are all abortions prohibited. Despite broad proscription, an exception always exists. The exception contained in Art. 1196, for an abortion procured or attempted by medical advice for the purpose of saving the life of the mother, is typical. But if the fetus is a person who is not to be deprived of life without due process of law, and if the mother's condition is the sole determinant, does not the Texas exception appear to be out of line with the Amendment's command?

There are other inconsistencies between Fourteenth Amendment status and the typical abortion statute. It has already been pointed out, n. 49, supra, that in Texas the woman is not a principal or an accomplice with respect to an abortion upon her. If the fetus is a person, why is the woman not a principal or an accomplice? Further, the penalty for criminal abortion specified by Art. 1195 is significantly less than the maximum penalty for murder prescribed by Art. 1257 of the Texas Penal Code. If the fetus is a person, may the penalties be different?

*Roe v. Wade*, 410 U.S. 113, 157 n.54 (1973).

Accordingly, House Bill 1489's "severity" is logically and legally necessary to answer the personhood argument presented in *Roe v. Wade*. Any North Dakota statute which does not provide the preborn child the same protection against an attack on its life as that provided to a born child endorses the logic of *Roe v. Wade* that the preborn child is not a "person" under the Fourteenth Amendment. Personhood is personhood. Any statute which recognizes two classes of persons, born and preborn, affording them differential protection, is fatally flawed at the outset.

To accomplish its objective, a state law protecting life must provide full and equal protection to all human beings, born and preborn. Otherwise it will not withstand constitutional scrutiny.

In this light I ask the Judiciary Committee enthusiastically to support House Bill 1489.

My staff and I remain available to discuss this matter further at your convenience.

## A Statement in Favor of HB 1489 David Hanson

Mr. Chairman and members of the committee, thank you for allowing me the opportunity to express my thoughts on this bill.

I'm testifying in favor of HB 1489 because it will advance protection of both the unborn and the mother.

Now when I read this bill I understood it to ban abortion and prohibit the prescribing and selling of drugs or devices to perform abortions and to prohibit coercion of the mother into an abortion. You might be wondering if we can legally pass this bill and/or if we should pass this bill. I hope I can answer some of those questions. But before I do I would like to point a few things out.

The question when life begins has been a major topic in the abortion debate. Without getting into too much detail, I will simply say that the embryo or fetus has distinct DNA and a heartbeat separate from its mother. This I believe is enough to justify that the fetus is a separate living individual that deserves the equal protection under the law that we enjoy.

In the 5th amendment it guarantees that life, liberty and property cannot be taken without due process of law. It says the same thing in the 14th amendment, but the 14th amendment goes further to say that no person shall be deprived of the equal protection of the law. Clearly then, if we assert that the unborn is in fact a person, their rights to life are indeed being taken away without due process as required under the Constitution.

In the 14th amendment in section 5. it gives Congress the power to, "enforce this article with appropriate legislation". Last year there was a bill introduced into Congress ( H.R. 552 ), with 101 co-sponsors, that would acknowledge that from conception until death that each person was protected under the 14th amendment. This would have essentially required the states to treat abortion as murder. You might be wondering how this would stand under Roe v. Wade. The idea for the bill actually came out of Roe itself. In Roe v. Wade the Court admitted, "If this suggestion of personhood is established, the appellant's case, of course collapses, [410 U.S. 113, 157] for the fetus' right to life would then be guaranteed specifically by the [14th] Amendment." The Court went on to say, "We need not resolve the difficult question of when life begins. When those trained in their respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, the judiciary, at this point in development of man's knowledge, is not in a position to speculate as to the answer." Congress could overturn Roe by recognizing embryos from conception that they are persons protected under the 14th amendment.

So, HB 1489 would not wait for Congress to require North Dakota or any other state to recognize the fetus as a person and a right to the equal protection of the law. Can we legally pass this bill? Yes, I believe that this bill is constitutional, however I'm very sure that this would be brought to court and therefore suggest an appropriation to the Attorney General for any possible lawsuit. Should we pass it? Yes, this bill would recognize the 5th and 14th right to life that cannot be taken without due process of law and that each person is protected equally under the law. This bill will go a long way in protecting both the child and mother.

Thank you for your time.



*North Dakota Right to Life Association*

Testimony before the HOUSE JUDICIARY COMMITTEE  
House Bill 1489

January 22, 2007 8:00 am

Chairman DeKrey, members of the committee, I am Stacey Pfliiger, Legislative Director of the North Dakota Right to Life Association .

It is my understanding that HB 1489 has been introduced to protect the unborn child; to penalize with a class AA felony the abortionist; and to penalize anyone who coerces a woman into having an abortion with a class C felony. It is also my understanding the bill is not intended to punish a woman who has an abortion. North Dakota Right to Life is opposed to legislation that criminalizes a woman who has an abortion. The Association is supportive of an amendment to clarify this point.

In addition, North Dakota Right to Life encourages an amendment to provide for an effective date similar to the language presented in HB 1466 (HB 1466, page 5, lines 14-17).

In summary, the North Dakota Right to Life Association encourages the two changes presented and with these changes North Dakota Right to Life supports HB 1489.

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



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Testimony  
House Bill 1489  
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 1489.

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 human rights to reproductive health care and freedom. House Bill 1489 is an unconstitutional measure which would put women's health in grave danger.

As you are undoubtedly aware, in the landmark decision *Roe v. Wade*, 410 U.S. 113 (1973), the United States Supreme Court ruled that the constitutional right to privacy extends to the decision of a woman, in consultation with her physician, to terminate her pregnancy. Therefore, up to the point that the fetus is viable, states may not ban abortions, while after viability, they may do so, but must make exceptions to protect the woman's health and life. In *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992), the Supreme Court reaffirmed the central tenets of *Roe*, holding that women have a constitutional right to choose to end a pregnancy prior to viability. If this legislature passes HB 1489, there can be no doubt that it will do so in blatant defiance to the United States Constitution.

The language of HB 1489 defines "preborn" as a human being from the moment of fertilization. This broad and sweeping language of this type would encompass some forms of common birth control methods including the IUD and emergency contraception; and even restrict methods of stem cell research making use of these methods punishable

with 20 years in prison, a \$20,000 fine or both. If this legislature is interested in reducing the number of abortions they should be supporting measures that would increase access to birth control rather than supporting measures such as HB 1489, which are a direct assault on birth control.

Achieving the goal of limiting a family to the number of children that most couples want is no easy task. Indeed, a typical woman spends roughly five of her childbearing years trying to become pregnant or being pregnant, and an additional THIRTY years trying to AVIOD pregnancy<sup>1</sup>.

The overwhelming majority of women in this country attempt to control their fertility by using contraception. The CDC describes contraceptive use as "virtually universal among women of reproductive age."<sup>2</sup> And 98% of sexually experienced American women have used a contraceptive method at some time.<sup>3</sup>

Planned Parenthood is absolutely committed to helping women avoid unintended pregnancy; it is the core of our mission. We devote significant resources to educating adolescents and women about contraception and their contraceptive options.

This ban places politics above the health and safety of women and is wildly out of step with mainstream America. Polls consistently show the majority of Americans support a woman's right to choose.<sup>4</sup> In fact, when an abortion ban, less extreme than HD 1489 was put to a vote in South Dakota last year, the voters in that state soundly rejected the ban.

In fact, HB 1489 is far more extreme than the abortion ban in South Dakota in that it has no exception for the life of the mother. This means that if a doctor was faced with a pregnant woman who would die if she gave birth the doctor would not be allowed to perform an abortion to save the woman's life. Furthermore, according to this legislation any person who performs an abortion or intentionally or knowingly aids, abets, facilitates, solicits or incites a person to terminate a pregnancy can also be captured under this ban. This sweeping language is extremely vague and could include any person who talks to a woman about abortion or assists her in any manner in receiving an abortion, it could also be used to prosecute the woman herself.

By criminalizing abortion and some forms of birth control in North Dakota, this ban would put women's health and lives in jeopardy. I urge you to oppose HB 1489 and

stand with me and Planned Parenthood in supporting common sense measures aimed at increasing access to birth control and therefore reducing the number of unintended pregnancy and in turn abortion.

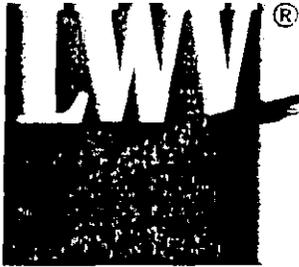
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<sup>1</sup> The Alan Guttmacher Institute (AGI), *Hopes and Realities: Closing the Gap Between Woman's Aspirations and Their Reproductive Experiences*, New York: AGI (1995): 39; and AGI, *Fulfilling the Promise: Public Policy and U.S. Family Planning Clinic*. New York: AGI (2000): 44.

<sup>2</sup> Mosher WD et al., Use of contraception and use of family planning services in the United States: 1982-2002, *Advance Data from Vital and Health Statistics*, 2004, No. 350, p.1.

<sup>3</sup> Heather D Boonstra, et al., *Abortion in Women's Lives*. New York: AGI (2006): 6.

<sup>4</sup> 65% according to The PEW Research Center, July 2005



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.

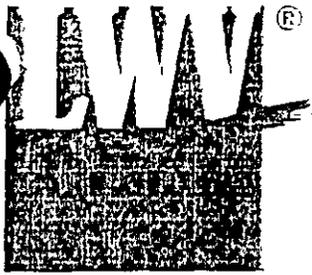
The League of Women Voters Public Policy Position on Reproductive Choice, as announced by our national board in January, 1983 is as follows:

*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.



## 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 18<sup>th</sup> 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 oppose 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 illegal 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 107<sup>th</sup> 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.



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

# 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 1,459 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 12 months of beginning to use a specific contraceptive method (Alan 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

and legal family planning services regardless of the individual's income, marital status, race, ethnicity, sexual orientation, age, national origin, or residence

- Access to the full range of safe and legal reproductive health services for women and men including (and not limited to) contraception, fertility enhancement, treatment of sexually transmitted diseases, and emergency contraception, prenatal, birthing, postpartum, sterilization, and abortion services
- The provision of reproductive health services including abortion services that are legal, safe, and free from duress for both patients and providers
- The provision of reproductive health services, including abortion services, that are confidential, comprehensive, available at reasonable cost, and covered in public and private health insurance plans on a par with other kinds of health services (contraceptive equity)
- Improvement in access to the full range of reproductive health services, including abortion services, for groups currently underserved in the United States, including the poor and those who rely on Medicaid to pay for their health care; adolescents; sex workers; single people; lesbians; people of color and those from nondominant ethnic and cultural groups; those in rural areas; and those in the many counties and municipalities that currently do not have providers of such services as abortion (NARAL, 1999b)
- Empower women through public policies that incorporate women's rights, reproductive health, and reproductive choices; condemn all forms of discrimination; and increase the economic and social supports for women and families who choose to have children
- The provision of reproductive health services to include access, protection, and supportive services to people with special challenges and needs.

Only by eliminating barriers to services based on finances, geography, age, or other personal characteristics will self-determination for all be achieved.

## *Legislation*

Recent years have seen many initiatives at the state and federal level to erode the privacy and reduce the freedom granted by the Supreme Court to women seeking abortion, contraceptive, and other reproductive health services. In particular, national and state legislative bodies have acted to restrict funding, even internationally, to family planning and other health care programs that include abortion among the services they offer. Therefore, NASW:

- supports a woman's right to seek and obtain a medically safe abortion under dignified circumstances
- opposes government restrictions on access to reproductive health services, including abortion services, or on financing for them in health insurance and foreign aid programs
- opposes any special conditions and requirements, such as mandatory counseling or waiting periods, attached to the receipt of any type of reproductive health care
- opposes legislative or funding restrictions on medically approved forms of birth control, including emergency contraception
- opposes limits and restrictions on adolescents' access to confidential reproductive health services, including birth control and abortion services, and the imposition of parental notification and consent procedures on them
- supports legislative measures, including buffer zone bills, to protect clients and providers seeking and delivering reproductive health services, including abortion services, from harassment and violence.

## *Education and Research*

In order for people to exercise their right to freedom in making sexual and reproductive choices for themselves and their families and to choose their own reproductive health care services, NASW supports:

■ funding for research into medically safe and effective methods of birth and fertility control for women and men that includes attention to the needs of minority women.

■ inclusion of content on the provision of effective, safe, and high-quality family planning and reproductive health services, including abortion services, in the training of physicians and other relevant medical professionals

■ comprehensive, age-appropriate, culturally competent sex education programs that include information about sexuality and reproduction; the role of personal attitudes, beliefs, and values in individual and family decision making on these issues; how gender roles and stereotypes can harm the reproductive health of women and men; the prevention of sexually transmitted diseases; the range of reproductive health services and technologies available; and the development of skills to make healthy personal choices about sexuality, reproduction, and reproductive health care

■ funding for sex education programs without restriction on the content of the information provided

■ development and funding of programs to prevent the spread of sexually transmitted diseases, to prevent unwanted pregnancies, and to reduce all forms of sexual violence and coercion from which many unwanted pregnancies result

■ education of social workers, in degree-granting programs and through continuing education, about human sexuality, emerging reproductive technologies, and effective practice with people making choices about their reproductive behavior and reproductive health care services.

Support, including governmental support, should be available to develop and disseminate improved methods of preventing, postponing, or promoting conception.

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Policy statement approved by the NASW Delegate Assembly, August 1999. This policy statement supersedes the policy statement on Family Planning approved by the Assembly in 1967 and reconfirmed in August 1990, and the policy statement on Abortion approved by the Assembly in 1975 and reconfirmed by the Assembly in 1990. For further information, contact the National Association of Social Workers, 750 First Street, NE, Suite 700, Washington, DC 20002-4241. Telephone: 202-408-8600; e-mail: [press@naswdc.org](mailto:press@naswdc.org)

**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**

**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.**



AMERICAN  
ASSOCIATION OF  
UNIVERSITY  
WOMEN

NORTH DAKOTA

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 this testimony in opposition to HB 1464, HB 1466, HB 1489, and HB 1494.

The American Association of University Women's public policy position on Reproductive Rights, available through our Public Policy and Governmental Relations Department, and dated 12/18/06 reads as follows:

*The U.S. Supreme Court's 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.*

*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.*

Based on our support of AAUW's pro-choice public policy position and a thirty-six 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 the opportunity to provide testimony in opposition to these bills on behalf of North Dakota's 300 members and the 100,000 national members of the American Association of University Women.

**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 <sup>21</sup> 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

ND Council on Abused Women's Services/Coalition Against Sexual Assault in ND  
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**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.