



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

April 5, 2000
(House)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 3660 - Partial-Birth Abortion Act of 2000

(Rep. Canady (R) FL and 116 cosponsors)

H.R. 3660 contains the same serious flaws as H.R. 1833 and H.R. 1122, virtually identical bills that were passed during the 104th and 105th Congresses and vetoed by the President on April 10, 1996, and October 10, 1997, respectively.

The President will veto H.R. 3660 for the reasons he expressed in his veto messages of April 10, 1996, and October 10, 1997, which are attached.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

October 10, 1997

TO THE HOUSE OF REPRESENTATIVES:

I am returning herewith without my approval H.R. 1122, which would prohibit doctors from performing a certain kind of abortion. I am returning H.R. 1122 for exactly the same reasons I returned an earlier substantially identical version of this bill, H.R. 1833, last year. My veto message of April 10, 1996, fully explains my reasons for returning that bill and applies to H.R. 1122 as well. H.R. 1122 is a bill that is consistent neither with the Constitution nor sound public policy.

As I have stated on many occasions, I support the decision in *Roe v. Wade* protecting a woman's right to choose. Consistent with that decision, I have long opposed late-term abortions, and I continue to do so except in those instances necessary to save the life of a woman or prevent serious harm to her health. Unfortunately, H.R. 1122 does not contain an exception to the measure's ban that will adequately protect the lives and health of the small group of women in tragic circumstances who need an abortion performed at a late stage of pregnancy to avert death or serious injury.

I have asked the Congress repeatedly, for almost 2 years, to send me legislation that includes a limited exception for the small number of compelling cases where use of this procedure is necessary to avoid serious health consequences. When Governor of Arkansas, I signed a bill into law that barred third-trimester abortions, with an appropriate exception for life or health. I would do so again, but only if the bill contains an exception for the rare cases where a woman faces death or serious injury. I believe the Congress should work in a bipartisan manner to fashion such legislation.

WILLIAM J. CLINTON

THE WHITE HOUSE,
October 10, 1997.

#

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Office of the Press Secretary

For Immediate Release

April 10, 1996

TO THE HOUSE OF REPRESENTATIVES:

I am returning herewith without my approval H.R. 1833, which would prohibit doctors from performing a certain kind of abortion. I do so because the bill does not allow women to protect themselves from serious threats to their health. By refusing to permit women, in reliance on their doctors' best medical judgment, to use this procedure when their lives are threatened or when their health is put in serious jeopardy, the Congress has fashioned a bill that is consistent neither with the Constitution nor with sound public policy.

I have always believed that the decision to have an abortion generally should be between a woman, her doctor, her conscience, and her God. I support the decision in *Roe v. Wade* protecting a woman's right to choose, and I believe that the abortions protected by that decision should be safe and rare. Consistent with that decision, I have long opposed late-term abortions except where necessary to protect the life or health of the mother. In fact, as Governor of Arkansas, I signed into law a bill that barred third trimester abortions, with an appropriate exception for life or health.

The procedure described in H.R. 1833 has troubled me deeply, as it has many people. I cannot support use of that procedure on an elective basis, where the abortion is being performed for non-health related reasons and there are equally safe medical procedures available.

There are, however, rare and tragic situations that can occur in a woman's pregnancy in which, in a doctor's medical judgment, the use of this procedure may be necessary to save a woman's life or to protect her against serious injury to her health. In these situations, in which a woman and her family must make an awful choice, the Constitution requires, as it should, that the ability to choose this procedure be protected.

In the past several months, I have heard from women who desperately wanted to have their babies, who were devastated to learn that their babies had fatal conditions and would not live, who wanted anything other than an abortion, but who were advised by their doctors that this procedure was their best chance to avert the risk of death or grave harm which, in some cases, would have included an inability to ever bear children again. For these women, this was not about choice -- not about deciding against having a child. These babies were certain to perish before, during or shortly after birth, and the only question was how much grave damage was going to be done to the woman.

I cannot sign H.R. 1833, as passed, because it fails to protect women in such dire circumstances -- because by treating doctors who perform the procedure in these tragic cases as criminals, the bill poses a danger of serious harm to women. This bill, in curtailing the ability of women and their doctors to choose the procedure for sound medical reasons, violates the constitutional command that any law regulating abortion protect both the life and the health of the woman. The bill's overbroad criminal prohibition risks that women will suffer serious injury.

That is why I implored Congress to add an exemption for the small number of compelling cases where selection of the procedure, in the medical judgment of the attending physician, was necessary to preserve the life of the woman or avert serious adverse consequences to her health. The life exception in the current bill only covers cases where the doctor believes that the woman will die. It fails to cover cases where, absent the procedure, serious physical harm, often including losing the ability to have more children, is very likely to occur. I told Congress that I would sign H.R. 1833 if it were amended to add an exception for serious health consequences. A bill amended in this way would strike a proper balance, remedying the constitutional and human defect of H.R. 1833. If such a bill were presented to me, I would sign it now.

I understand the desire to eliminate the use of a procedure that appears inhumane. But to eliminate it without taking into consideration the rare and tragic circumstances in which its use may be necessary would be even more inhumane.

The Congress chose not to adopt the sensible and constitutionally appropriate proposal I made, instead leaving women unprotected against serious health risks. As a result of this Congressional indifference to women's health, I cannot, in good conscience and consistent with my responsibility to uphold the law, sign this legislation.

WILLIAM J. CLINTON

THE WHITE HOUSE,
April 10, 1996

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

April 3, 2000
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 3660 - Partial-Birth Abortion Act of 2000 (Rep. Canady (R) FL and 116 cosponsors)

H.R. 3660 contains the same serious flaws as H.R. 1833 and H.R. 1122, virtually identical bills that were passed during the 104th and 105th Congresses and vetoed by the President on April 10, 1996, and October 10, 1997, respectively.

The President will veto H.R. 3660 for the reasons he expressed in his veto messages of April 10, 1996, and October 10, 1997, which are attached.

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For Immediate Release

October 10, 1997

TO THE HOUSE OF REPRESENTATIVES:

I am returning herewith without my approval H.R. 1122, which would prohibit doctors from performing a certain kind of abortion. I am returning H.R. 1122 for exactly the same reasons I returned an earlier substantially identical version of this bill, H.R. 1833, last year. My veto message of April 10, 1996, fully explains my reasons for returning that bill and applies to H.R. 1122 as well. H.R. 1122 is a bill that is consistent neither with the Constitution nor sound public policy.

As I have stated on many occasions, I support the decision in Roe v. Wade protecting a woman's right to choose. Consistent with that decision, I have long opposed late-term abortions, and I continue to do so except in those instances necessary to save the life of a woman or prevent serious harm to her health. Unfortunately, H.R. 1122 does not contain an exception to the measure's ban that will adequately protect the lives and health of the small group of women in tragic circumstances who need an abortion performed at a late stage of pregnancy to avert death or serious injury.

I have asked the Congress repeatedly, for almost 2 years, to send me legislation that includes a limited exception for the small number of compelling cases where use of this procedure is necessary to avoid serious health consequences. When Governor of Arkansas, I signed a bill into law that barred third-trimester abortions, with an appropriate exception for life or health. I would do so again, but only if the bill contains an exception for the rare cases where a woman faces death or serious injury. I believe the Congress should work in a bipartisan manner to fashion such legislation.

WILLIAM J. CLINTON

THE WHITE HOUSE,
October 10, 1997.

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I have always believed that the decision to have an abortion generally should be between a woman, her doctor, her conscience, and her God. I support the decision in *Roe v. Wade* protecting a woman's right to choose, and I believe that the abortions protected by that decision should be safe and rare. Consistent with that decision, I have long opposed late-term abortions except where necessary to protect the life or health of the mother. In fact, as Governor of Arkansas, I signed into law a bill that barred third trimester abortions, with an appropriate exception for life or health.

The procedure described in H.R. 1833 has troubled me deeply, as it has many people. I cannot support use of that procedure on an elective basis, where the abortion is being performed for non-health related reasons and there are equally safe medical procedures available.

There are, however, rare and tragic situations that can occur in a woman's pregnancy in which, in a doctor's medical judgment, the use of this procedure may be necessary to save a woman's life or to protect her against serious injury to her health. In these situations, in which a woman and her family must make an awful choice, the Constitution requires, as it should, that the ability to choose this procedure be protected.

In the past several months, I have heard from women who desperately wanted to have their babies, who were devastated to learn that their babies had fatal conditions and would not live, who wanted anything other than an abortion, but who were advised by their doctors that this procedure was their best chance to avert the risk of death or grave harm which, in some cases, would have included an inability to ever bear children again. For these women, this was not about choice -- not about deciding against having a child. These babies were certain to perish before, during or shortly after birth, and the only question was how much grave damage was going to be done to the woman.

I cannot sign H.R. 1833, as passed, because it fails to protect women in such dire circumstances -- because by treating doctors who perform the procedure in these tragic cases as criminals, the bill poses a danger of serious harm to women. This bill, in curtailing the ability of women and their doctors to choose the procedure for sound medical reasons, violates the constitutional command that any law regulating abortion protect both the life and the health of the woman. The bill's overbroad criminal prohibition risks that women will suffer serious injury.

That is why I implored Congress to add an exemption for the small number of compelling cases where selection of the procedure, in the medical judgment of the attending physician, was necessary to preserve the life of the woman or avert serious adverse consequences to her health. The life exception in the current bill only covers cases where the doctor believes that the woman will die. It fails to cover cases where, absent the procedure, serious physical harm, often including losing the ability to have more children, is very likely to occur. I told Congress that I would sign H.R. 1833 if it were amended to add an exception for serious health consequences. A bill amended in this way would strike a proper balance, remedying the constitutional and human defect of H.R. 1833. If such a bill were presented to me, I would sign it now.

I understand the desire to eliminate the use of a procedure that appears inhumane. But to eliminate it without taking into consideration the rare and tragic circumstances in which its use may be necessary would be even more inhumane.

The Congress chose not to adopt the sensible and constitutionally appropriate proposal I made, instead leaving women unprotected against serious health risks. As a result of this Congressional indifference to women's health, I cannot, in good conscience and consistent with my responsibility to uphold the law, sign this legislation.

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April 3, 2000
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H.R. 3660 contains the same serious flaws as H.R. 1833 and H.R. 1122, virtually identical bills that were passed during the 104th and 105th Congresses and vetoed by the President on April 10, 1996, and October 10, 1997, respectively.

The President will veto H.R. 3660 for the reasons he expressed in his veto messages of April 10, 1996, and October 10, 1997, which are attached.

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For Immediate Release

October 10, 1997

TO THE HOUSE OF REPRESENTATIVES:

I am returning herewith without my approval H.R. 1122, which would prohibit doctors from performing a certain kind of abortion. I am returning H.R. 1122 for exactly the same reasons I returned an earlier substantially identical version of this bill, H.R. 1833, last year. My veto message of April 10, 1996, fully explains my reasons for returning that bill and applies to H.R. 1122 as well. H.R. 1122 is a bill that is consistent neither with the Constitution nor sound public policy.

As I have stated on many occasions, I support the decision in *Roe v. Wade* protecting a woman's right to choose. Consistent with that decision, I have long opposed late-term abortions, and I continue to do so except in those instances necessary to save the life of a woman or prevent serious harm to her health. Unfortunately, H.R. 1122 does not contain an exception to the measure's ban that will adequately protect the lives and health of the small group of women in tragic circumstances who need an abortion performed at a late stage of pregnancy to avert death or serious injury.

I have asked the Congress repeatedly, for almost 2 years, to send me legislation that includes a limited exception for the small number of compelling cases where use of this procedure is necessary to avoid serious health consequences. When Governor of Arkansas, I signed a bill into law that barred third-trimester abortions, with an appropriate exception for life or health. I would do so again, but only if the bill contains an exception for the rare cases where a woman faces death or serious injury. I believe the Congress should work in a bipartisan manner to fashion such legislation.

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I cannot sign H.R. 1833, as passed, because it fails to protect women in such dire circumstances -- because by treating doctors who perform the procedure in these tragic cases as criminals, the bill poses a danger of serious harm to women. This bill, in curtailing the ability of women and their doctors to choose the procedure for sound medical reasons, violates the constitutional command that any law regulating abortion protect both the life and the health of the woman. The bill's overbroad criminal prohibition risks that women will suffer serious injury.

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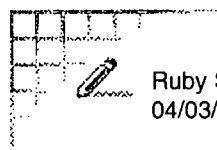
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WILLIAM J. CLINTON

THE WHITE HOUSE,
April 10, 1996

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Ruby Shamir
04/03/2000 12:43:21 PM

Record Type: Record

To: Ann O'Leary/OPD/EOP@EOP, Heather H. Howard/OPD/EOP@EOP
cc:
Subject: PARTIAL BIRTH ABORTION BAN SAP -- REVERT TO OLD LANGUAGE

----- Forwarded by Ruby Shamir/OPD/EOP on 04/03/2000 12:43 PM -----



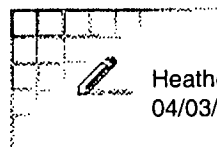
● Brooke B. Livingston 04/03/2000 12:23:12 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: PARTIAL BIRTH ABORTION BAN SAP -- REVERT TO OLD LANGUAGE

On the recommendation of Bill Marshall, Heather Howard, Ann Lewis, and Broderick Johnson, I will use the older short version of the SAP unless someone disagrees. Please let me know ASAP. Thanks, Brooke 5-4790.

----- Forwarded by Brooke B. Livingston/OMB/EOP on 04/03/2000 01:27 PM -----



Heather H. Howard
04/03/2000 12:12:25 PM

Record Type: Record

To: Brooke B. Livingston/OMB/EOP@EOP
cc: See the distribution list at the bottom of this message
Subject: FOR CLEARANCE: PARTIAL BIRTH ABORTION BAN SAP -- COMMENTS DUE BY 12:30 TODAY

Brook -- Bill Marshall (Counsel's Office), Ann Lewis and I agree that the SAP should be short and be consistent with past SAP's - consistency is key and the less said the better. So we strongly recommend going with the older, short language (NOT including the paragraph on the Supreme Court case). Broderick Johnson of Leg Affairs agrees.

(note -- there is a typo in the first paragraph of the struck language - you need to take out either the "in" or "during")

Call me if you have any questions. 6-7263.

----- Forwarded by Heather H. Howard/OPD/EOP on 04/03/2000 12:01 PM -----



Anna Richter

04/03/2000 11:48:47 AM

Record Type: Record

To: epliu@msn.com @ inet, Bruce N. Reed/OPD/EOP@EOP, Heather H. Howard/OPD/EOP@EOP

cc:

Subject: FOR CLEARANCE: PARTIAL BIRTH ABORTION BAN SAP -- COMMENTS DUE BY 12:30 TODAY

----- Forwarded by Anna Richter/OPD/EOP on 04/03/2000 11:48 AM -----



● **Brooke B. Livingston**

04/03/2000 11:46:13 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: See the distribution list at the bottom of this message

Subject: FOR CLEARANCE: PARTIAL BIRTH ABORTION BAN SAP -- COMMENTS DUE BY 12:30 TODAY



Attached for your clearance is the DRAFT SAP on the partial birth abortion bill stating that POTUS will veto. This position is consistent with the Administration's previous positions on the bill. However, the language of the SAP, supplied by DOJ, is new. **IF YOU PREFER THE OLD, SHORTER LANGUAGE (which is struck-out), PLEASE LET ME KNOW ASAP.**

Both the 1996 and 1997 POTUS veto statements will be attached to the SAP when it is sent to the Hill. (I have included the statements at the end of the email as well).

This bill will be considered by Rules at 1pm. Pls. clear the attached SAP by 12:30 TODAY in attempt to get the SAP to the Hill for Rules consideration.

Sorry for the short turn-around time. Thanks, Brooke

DRAFT -- NOT FOR RELEASE

April 3, 2000

(House Rules)

H.R. 3660 - Partial-Birth Abortion Act of 2000

(Rep. Canady (R) FL and 116 cosponsors)

~~H.R. 3660 contains the same serious flaws as H.R. 1833 and H.R. 1122, virtually identical bills that were passed in during the 104th and 105th Congresses and vetoed by the President on April 10, 1996, and October 10, 1997, respectively.~~

H.R. 3660 is unconstitutional for several reasons. The bill contains the same serious constitutional flaws as H.R. 1833 and H.R. 1122, virtually identical bills that were passed during the 104th and 105th Congresses and vetoed by the President on April 10, 1996, and October 10, 1997, respectively. Moreover, in a brief filed with the Supreme Court on Wednesday, March 29, 2000, in *Steinberg v. Carhart* (99-830), the Administration argued that similar state legislation is unconstitutional for a variety of reasons. Although the definition in this legislation of the prohibited procedure differs somewhat from the definitions in H.R. 1833, H.R. 1122, and Neb. Rev. Stat. Ann. 28-326(9) (the Nebraska law at issue in *Carhart*), the differences do not cure the constitutional defects.

The President accordingly will veto H.R. 3660 for the reasons he expressed in his veto messages of April 10, 1996, and October 10, 1997, which are attached.

(Do Not Distribute Outside Executive Office of the President)

This Statement of Administration Policy was developed by the Legislative Reference Division (Pellicci) in consultation with the Office of the White House Counsel (Marshall), DPC (O'Leary/Howard), HD (Garcia), and the White House Women's Office (Supina).

OMB/LA Clearance: Elizabeth Gore, Jeanne Lambrew, Sylvia Mathews

Background

The proposed position is identical to that taken during the 104th and 105th Congresses on virtually identical legislation. H.R. 3660, like the previous two bills, fails to address the President's primary concern that the prohibition on this type of abortion procedure not apply when the attending physician considers the procedure necessary to preserve the health of the woman. (The bill only would allow this type of abortion in cases where it is needed to save the life of the woman.)

During the 104th Congress, H.R. 1833 passed the House by a vote of 286-129, and the Senate by a vote of 54-44. During the 105th Congress, H.R. 1122 passed the House by a vote of 296-132, and the Senate by a vote of 64-36.

On 10/21/99, the Senate passed S. 1692, the Senate companion bill, by a vote of 63-34. S. 1692 is virtually identical to H.R. 3660. The only substantive difference is that S. 1692 defines "partial-birth abortion" slightly differently than H.R. 3660. The difference does not affect the position on the bill.

On March 30th, the House Judiciary Committee decided to allow the bill to go directly to the House floor on Wednesday, April 5th, rather than conduct a formal markup of the legislation.

Description of H.R. 3660

H.R. 3660 would ban under most circumstances a certain type of late-term abortion procedure known medically as intact dilation extraction, which the bill calls "partial-birth abortion". H.R. 3660 defines the term partial-birth abortion to mean an abortion in which the person performing the abortion "deliberately and intentionally (a) vaginally delivers some portion of an intact living fetus until the fetus is partially outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the fetus while the fetus is partially outside the body of the mother, and (b) performs the overt act that kills the fetus while the intact living fetus is partially outside the body of the mother."

H.R. 3660 would allow a partial-birth abortion in cases where it is needed "to save the life of a mother whose life is endangered by a physical disorder, illness, or injury." This bill, like the ones before it, does not include an exception for cases in which the woman's health is threatened.

H.R. 3660 would subject doctors and others who perform the procedure to civil and criminal

finer and/or up to two years of imprisonment. The bill would allow the father, if married to the woman at the time of the procedure, and certain other family members to sue the individual performing the procedure for damages. H.R. 3660 would exempt women who obtain such abortions from any criminal penalties.

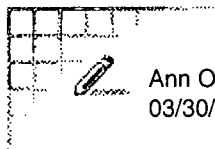
Pay-As-You-Go Scoring

H.R. 3660 could increase both direct spending and receipts; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. OMB estimates that the net pay-as-you-go effect of this bill would be zero.

LEGISLATIVE REFERENCE DIVISION DRAFT

03/31/00 - 2:30 p.m..

THE WHITE HOUSE



Ann O'Leary
03/30/2000 05:20:05 PM

Record Type: Record

To: Robert J. Pellicci/OMB/EOP@EOP
cc: Heather H. Howard/OPD/EOP@EOP
bcc:
Subject: Re: SAP on HR 3660 - Late-Term Abortion

Thank you. We will review it immediately. Could you please add Heather Howard to your list? She is new to the DPC and will be working on the DPC Children and Families team on all women/choice/family health issues.

Thanks.

From: Robert J. Pellicci on 03/30/2000 05:05:54 PM

From: Robert J. Pellicci on 03/30/2000 05:05:54 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: Brooke B. Livingston/OMB/EOP@EOP, James J. Jukes/OMB/EOP@EOP
Subject: SAP on HR 3660 - Late-Term Abortion

Attached for your review and comment is a draft SAP on HR 3660 "Partial-Birth Abortion Ban Act of 2000."
PLEASE GIVE ME YOUR COMMENTS BY NOON TOMORROW, MARCH 31ST. (I will fax you a copy of the President's April 10, 1996, statement.)



hr3660.sap

Message Sent To:

Jeanne Lambrew/OMB/EOP@EOP
Ann O'Leary/OPD/EOP@EOP
Karen Robb/WHO/EOP@EOP
Broderick Johnson/WHO/EOP@EOP
Lauren M. Supina/WHO/EOP@EOP

DRAFT -- NOT FOR RELEASE

March 30, 2000
(House)

H.R. 3660 - Partial-Birth Abortion Act of 2000
(Rep. Canady (R) FL and ___ cosponsors)

H.R. 3660 contains the same serious flaws as H.R. 1833 and H.R. 1122, virtually identical bills that were passed in during the 104th and 105th Congresses and vetoed by the President on April 10, 1996, and October 10, 1997, respectively.

The President will veto H.R. 3660 for the reasons he expressed in his veto message^s of April 10, 1996, which is attached.

(Do Not Distribute Outside Executive Office of the President)

This Statement of Administration Policy was developed by the Legislative Reference Division (Pellicci) in consultation with .

OMB/LA Clearance: _____

Background

The proposed position is identical to that taken during the 104th and 105th Congresses on virtually identical legislation. H.R. 3660, like the previous two bills, fails to address the President's primary concern that the prohibition on this type of abortion procedure not apply when the attending physician considers the procedure necessary to preserve the health of the woman. (The bill only would allow this type of abortion in cases where it is needed to save the life of the woman.)

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On 10/21/99, the Senate passed S. 1692, the Senate companion bill, by a vote of 63-34.

Pay-As-You-Go Scoring

↑
add
1997 message

From: Robert J. Pellicci on 03/31/2000 05:22:57 PM

Record Type: Record

To: Brooke B. Livingston/OMB/EOP@EOP

cc: William Marshall/WHO/EOP@EOP, Heather H. Howard/OPD/EOP@EOP, Lauren M. Supina/WHO/EOP@EOP, Ann O'Leary/OPD/EOP@EOP

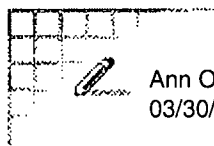
Subject: Justice language for SAP on HR 3660

Justice has offered an alternative to our language for the SAP on HR 3660. The Justice language would replace our language with the following:

"H.R. 3660 is unconstitutional for several reasons. The bill contains the same serious constitutional flaws as H.R. 1833 and H.R. 112, virtually identical bills that were passed during the 104th and 105th Congresses and vetoed by the President on April 10, 1996, and October 10, 1997, respectively. Moreover, in a brief filed with the Supreme Court on Wednesday, March 29, 2000, in *Steinberg v. Carhart* (99-830), the Administration argued that similar state legislation is unconstitutional for a variety of reasons. Although the definition in this legislation of the prohibited procedure differs somewhat from the definitions in H.R. 1833, H.R. 1122, and Neb. Rev. Stat. Ann. 28-326(9) (the Nebraska law at issue in *Carhart*), the differences do not cure the constitutional defects. The President accordingly will veto H.R. 3660."

The Justice contact on this is Nina Pillard (514-3744)

Bill will call + tell them he doesn't like



Ann O'Leary
03/30/2000 05:20:05 PM

Record Type: Record

To: Robert J. Pellicci/OMB/EOP@EOP
cc: Heather H. Howard/OPD/EOP@EOP
bcc:
Subject: Re: SAP on HR 3660 - Late-Term Abortion

Thank you. We will review it immediately. Could you please add Heather Howard to your list? She is new to the DPC and will be working on the DPC Children and Families team on all women/choice/family health issues.

Thanks.

From: Robert J. Pellicci on 03/30/2000 05:05:54 PM

From: Robert J. Pellicci on 03/30/2000 05:05:54 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: Brooke B. Livingston/OMB/EOP@EOP, James J. Jukes/OMB/EOP@EOP
Subject: SAP on HR 3660 - Late-Term Abortion

Attached for your review and comment is a draft SAP on HR 3660 "Partial-Birth Abortion Ban Act of 2000."
PLEASE GIVE ME YOUR COMMENTS BY NOON TOMORROW, MARCH 31ST. (I will fax you a copy of the President's April 10, 1996, statement.)



hr3660.sap

Message Sent To:

Jeanne Lambrew/OMB/EOP@EOP
Ann O'Leary/OPD/EOP@EOP
Karen Robb/WHO/EOP@EOP
Broderick Johnson/WHO/EOP@EOP
Lauren M. Supina/WHO/EOP@EOP

DRAFT -- NOT FOR RELEASE

March 30, 2000
(House)

H.R. 3660 - Partial-Birth Abortion Act of 2000
(Rep. Canady (R) FL and ___ cosponsors)

H.R. 3660 contains the same serious flaws as H.R. 1833 and H.R. 1122, virtually identical bills that were passed in during the 104th and 105th Congresses and vetoed by the President on April 10, 1996, and October 10, 1997, respectively.

The President will veto H.R. 3660 for the reasons he expressed in his veto message of April 10, 1996, which is attached.

* * * * *

(Do Not Distribute Outside Executive Office of the President)

This Statement of Administration Policy was developed by the Legislative Reference Division (Pellicci) in consultation with .

OMB/LA Clearance: _____

Background

The proposed position is identical to that taken during the 104th and 105th Congresses on virtually identical legislation. H.R. 3660, like the previous two bills, fails to address the President's primary concern that the prohibition on this type of abortion procedure not apply when the attending physician considers the procedure necessary to preserve the health of the woman. (The bill only would allow this type of abortion in cases where it is needed to save the life of the woman.)

During the 104th Congress, H.R. 1833 passed the House by a vote of 286-129, and the Senate by a vote of 54-44. During the 105th Congress, H.R. 1122 passed the House by a vote of 296-132, and the Senate by a vote of 64-36.

On 10/21/99, the Senate passed S. 1692, the Senate companion bill, by a vote of 63-34.

Pay-As-You-Go Scoring

LEGISLATIVE REFERENCE DIVISION DRAFT
03/30/00 - 5:00 p.m..

OFFICE OF MANAGEMENT AND BUDGET

**Legislative Reference Division
Labor-Welfare-Personnel Branch**

URGENT

TO: Jeannine Lambrew
Anne O'Leary DPC
Karen Robb WH/LA
Brendrick Johnson WH/LA
Laurin Sepina WH

FROM: **Robert Pellicci**
Phone #: (202) 395-4871
Fax #: (202) 395-6148
E-mail Address: **Robert_J_Pellicci@omb.eop.gov**

Heater

Number of Pages (Including cover page): 3

Date: 3/30 Time: 5:10 PM

Comments:

Per my e-mail on the
SAP on H.R. 3660 - Late-term
abortion prohibition. Attached
is the President's 4/10/96
veto message.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

April 10, 1996

TO THE HOUSE OF REPRESENTATIVES:

I am returning herewith without my approval H.R. 1833, which would prohibit doctors from performing a certain kind of abortion. I do so because the bill does not allow women to protect themselves from serious threats to their health. By refusing to permit women, in reliance on their doctors' best medical judgment, to use this procedure when their lives are threatened or when their health is put in serious jeopardy, the Congress has fashioned a bill that is consistent neither with the Constitution nor with sound public policy.

I have always believed that the decision to have an abortion generally should be between a woman, her doctor, her conscience, and her God. I support the decision in Roe v. Wade protecting a woman's right to choose, and I believe that the abortions protected by that decision should be safe and rare. Consistent with that decision, I have long opposed late-term abortions except where necessary to protect the life or health of the mother. In fact, as Governor of Arkansas, I signed into law a bill that barred third trimester abortions, with an appropriate exception for life or health.

The procedure described in H.R. 1833 has troubled me deeply, as it has many people. I cannot support use of that procedure on an elective basis, where the abortion is being performed for non-health related reasons and there are equally safe medical procedures available.

There are, however, rare and tragic situations that can occur in a woman's pregnancy in which, in a doctor's medical judgment, the use of this procedure may be necessary to save a woman's life or to protect her against serious injury to her health. In these situations, in which a woman and her family must make an awful choice, the Constitution requires, as it should, that the ability to choose this procedure be protected.

In the past several months, I have heard from women who desperately wanted to have their babies, who were devastated to learn that their babies had fatal conditions and would not live, who wanted anything other than an abortion, but who were advised by their doctors that this procedure was their best chance to avert the risk of death or grave harm which, in some cases, would have included an inability to ever bear children again. For these women, this was not about choice -- not about deciding against having a child. These babies were certain to perish before, during or shortly after birth, and the only question was how much grave damage was going to be done to the woman.

I cannot sign H.R. 1833, as passed, because it fails to protect women in such dire circumstances -- because by treating doctors who perform the procedure in these tragic cases as criminals, the bill poses a danger of serious harm to women. This bill, in curtailing the ability of women and their doctors to choose the procedure for sound medical reasons, violates the constitutional command that any law regulating abortion protect both the life and the health of the woman. The bill's overbroad criminal prohibition risks that women will suffer serious injury.

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That is why I implored Congress to add an exemption for the small number of compelling cases where selection of the procedure, in the medical judgment of the attending physician, was necessary to preserve the life of the woman or avert serious adverse consequences to her health. The life exception in the current bill only covers cases where the doctor believes that the woman will die. It fails to cover cases where, absent the procedure, serious physical harm, often including losing the ability to have more children, is very likely to occur. I told Congress that I would sign H.R. 1833 if it were amended to add an exception for serious health consequences. A bill amended in this way would strike a proper balance, remedying the constitutional and human defect of H.R. 1833. If such a bill were presented to me, I would sign it now.

I understand the desire to eliminate the use of a procedure that appears inhumane. But to eliminate it without taking into consideration the rare and tragic circumstances in which its use may be necessary would be even more inhumane.

The Congress chose not to adopt the sensible and constitutionally appropriate proposal I made, instead leaving women unprotected against serious health risks. As a result of this Congressional indifference to women's health, I cannot, in good conscience and consistent with my responsibility to uphold the law, sign this legislation.

WILLIAM J. CLINTON

THE WHITE HOUSE,
April 10, 1996.
