FIRST LADY HILLARY CLINTON AND VICE PRESIDENT GORE UNVEIL NEW INVESTMENT IN SAFE, EFFECTIVE FAMILY PLANNING SERVICES FOR AMERICAN WOMEN

January 22, 1999

Today, in honor of the 26th anniversary of Roe vs Wade, First Lady Hillary Rodham Clinton and Vice President Gore met with representatives from the reproductive health community to unveil a series of new steps to prevent unintended pregnancy, including a new multi million dollar initiative to ensure access to safe, high quality family planning services for American women.

MILLIONS OF AMERICAN WOMEN NEED FAMILY PLANNING SERVICES

More than 3 million unintended pregnancies occur every year in the United States. Women who use no contraceptives account for almost half of these pregnancies (47%), while the 39 million method users account for 53%. Unintended pregnancies among women who do not use contraception are almost as likely to end in abortion as they are in a birth.

NEW STEPS TOWARDS PROVIDING SAFE, EFFECTIVE FAMILY PLANNING SERVICES FOR AMERICAN WOMEN. This initiative reaffirms the Clinton-Gore Administration's committment to expanding and enhancing the quality of reproductive health services for all American women. Today, the First Lady and Vice President announced that the Administration is:

- **Unveiling the Largest Increase in Family Planning Services in 15 Years.** The Clinton/Gore Adminstration's FY 2000 budget includes $240 million for family planning, a $25 million increase, and the largest increase in 15 years. These grants fund family planning clinics providing reproductive health services and clinical care to over 5 million low income women. These new funds will be used to prevent over a million unintended pregnancies year by improving the delivery of comprehensive reproductive health services, including STD and cancer screening and prevention, and HIV prevention, education and counseling; providing educational programs that encourage adolescents to postpone of sexual activity; increase the accessibility of contraceptive counseling and services; increasing efforts to provide effective contraceptives to those in need; and developing partnerships with other community based providers to conduct outreach to adolescents at risk.

- **Preventing violence at women's health clinics.** In the wake of escalating violence against women's health clinics that provide abortions, the First Lady and the Vice President will announce the the FY 2000 budget includes $4.5 million for support additional security enhancements, such as including closed circuit camera systems, improved lighting, motion detectors, alarm systems and bullet-resistant windows for these clinics in order to protect their doctors and nurses. Under this proposal, the Department of Justice would make security assessments and enhancements available to clinics deemed to be at high risk of violence. This Administration is committed to fighting this form of domestic terrorism that has threatened so many clinics and providers. While emphasizing the importance of family planning services to prevent unintended pregnancies, the First Lady and Vice President also emphasized that those women who choose to have an abortion do not have to fear violence.

- **Contributing $25 million to the UNFPA.** Today, the First Lady and Vice President will announce that the President's FY 2000 budget proposes a $25 million voluntary contribution to the UNFPA, $5 million more than the President's FY 1999 budget proposal. The U.S. Contributions to the UN Population Fund is the largest multilateral donor organization in the population sector and concentrates its assistance to countries in the areas of reproductive health and voluntary family planning, population policy and advocacy.

- **Ensuring that Federal employees have access to comprehensive family planning services.** The FY 2000 budget also continues to ensure that the Federal government leads the way as a model health plan by assuring that Federal employees and their families participating in the 300 Federal Employees Health Benefit Program (FEHBP) have access to contraceptive coverage. This policy provides coverage to approximately 1.2 million women of childbearing age and reduces unwanted pregnancies and the need for abortions by requiring most FEHB plans to offer the full range of contraceptive services. Before this requirement, only 19% of federal health plans covered prescription contraceptives and 10% of the plans offered no contraceptive coverage at all.

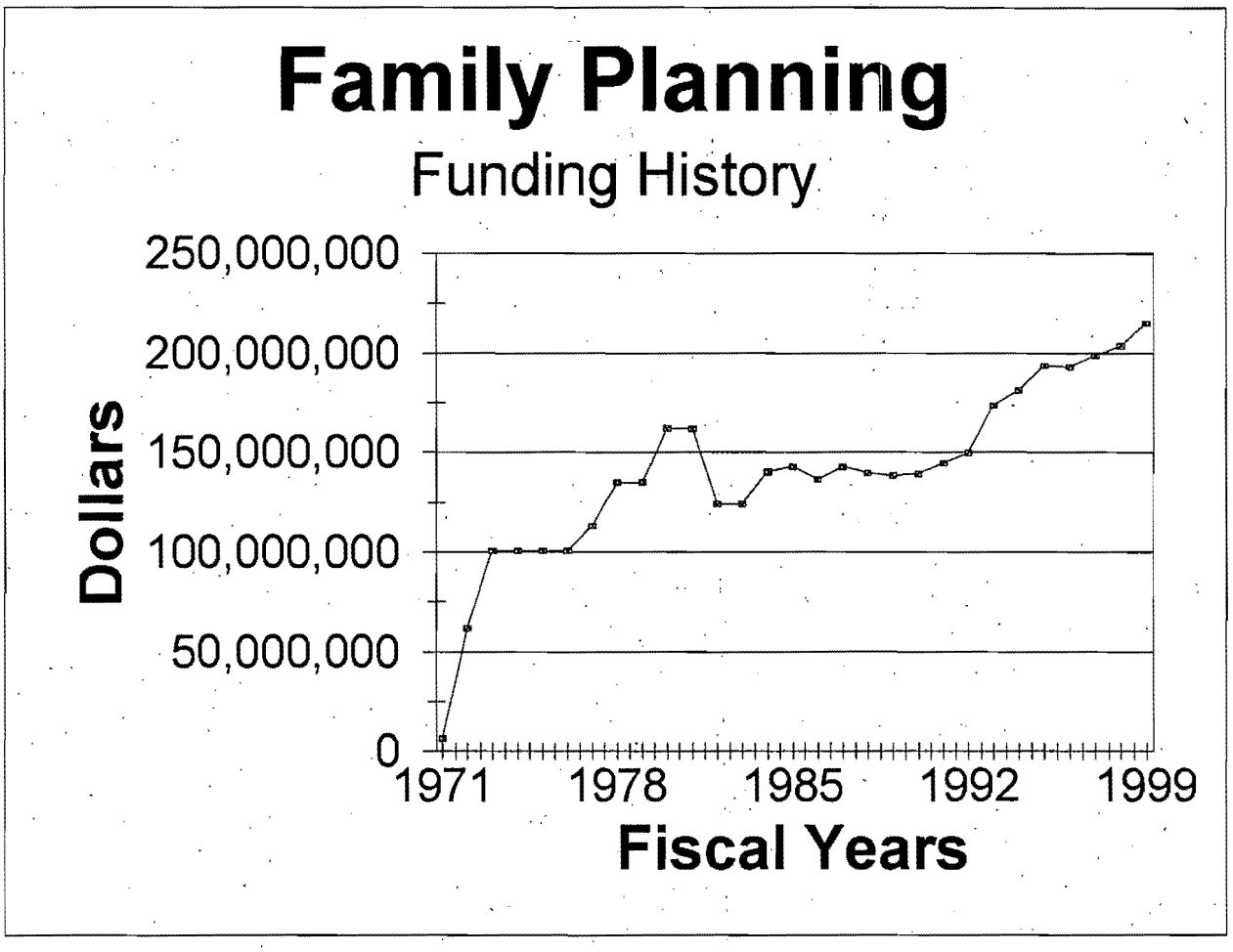
FROM HHS

FAMILY PLANNING PROGRAM--Title X
HISTORY TABLE

Fiscal Year	Appropriation
1971	$6,000,000
1972	61,815,000
1973	100,615,000
1974	100,615,000
1975	100,615,000
1976	100,615,000
1977	113,000,000
1978	135,000,000
1979	135,000,000
1980	162,000,000
1981	161,671,000
1982	124,176,000
1983	124,088,000
1984	140,000,000
1985	142,500,000
1986	136,372,000
1987	142,500,000
1988	139,663,000
1989	138,320,000
1990	139,135,000
1991	144,311,000
1992	149,585,000
1993	173,418,000
1994	180,918,000
1995	193,349,000
1996	192,592,000
1997	198,452,000
1998	203,452,000
1999	215,000,000
2000 Estimate	239,952,000

16% ↑

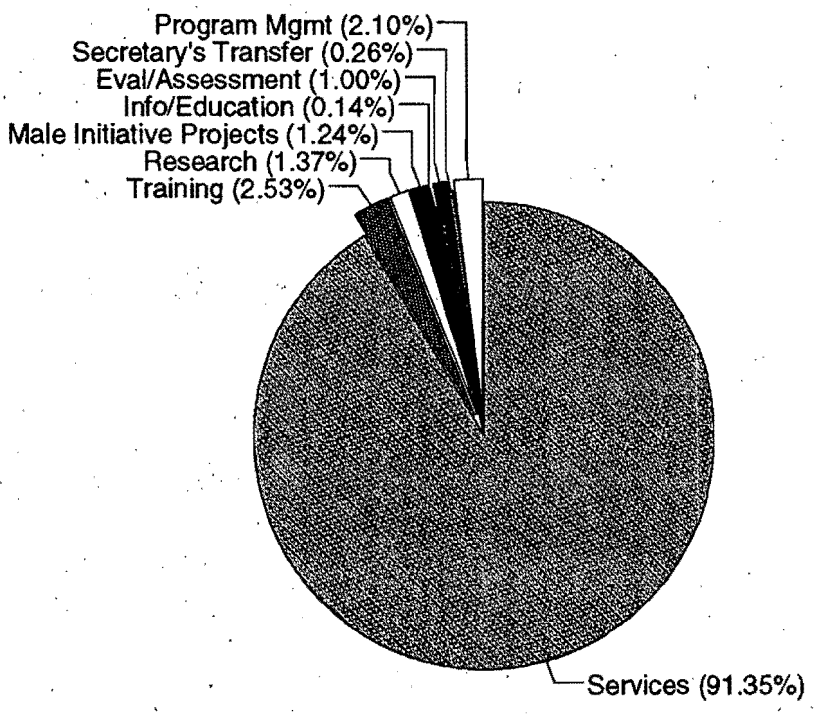
11% ↑


Family Planning
Funding History
250,000,000
200,000,000
150,000,000
100,000,000
50,000,000
0
Dollars
1971
1978
1985
1992
1999
Fiscal Years

Title X- Family Planning
FY 1995--FY 1998 Funding Distribution

Categories	1995	1996	1997	1998
Services	180,156,000	178,272,000	182,264,000	186,348,750
Training	4,920,680	5,752,952	5,666,000	5,164,088
Research	2,788,067	2,684,075	2,670,654	2,677,338
Male Initiative Projects	*0*	*0*	*1,935,346*	*2,539,662*
Information and Education	357,000	180,000	303,000	289,270
Evaluation and Assessments	903,000	1,560,000	1,408,000	2,172,884
Secretary's Transfer	*0*	*0*	*0*	*(526,185)*
Program Management	4,224,253	4,142,973	4,205,000	4,260,008
Total Title X	**193,349,000**	**192,592,000**	**198,452,000**	**202,925,815**
Secretary's Transfer Add Back				*526,185*
Total Title X Appro	**193,349,000**	**192,592,000**	**198,452,000**	**203,452,000**

Family Planning Funds Distribution
FY 1998



TITLE X—POPULATION RESEARCH AND VOLUNTARY FAMILY PLANNING PROGRAMS

PROJECT GRANTS AND CONTRACTS FOR FAMILY PLANNING SERVICES

SEC. 1001. [300] (a) The Secretary is authorized to make grants to and enter into contracts with public or nonprofit private entities to assist in the establishment and operation of voluntary family planning projects which shall offer a broad range of acceptable and effective family planning methods and services (including natural family planning methods, infertility services, and services for adolescents). To the extent practicable, entities which receive grants or contracts under this subsection shall encourage family participation in projects assisted under this subsection.

(b) In making grants and contracts under this section the Secretary shall take into account the number of patients to be served, the extent to which family planning services are needed locally, the relative need of the applicant, and its capacity to make rapid and effective use of such assistance. Local and regional entities shall be assured the right to apply for direct grants and contracts under this section, and the Secretary shall by regulation fully provide for and protect such right.

(c) The Secretary, at the request of a recipient of a grant under subsection (a), may reduce the amount of such grant by the fair market value of any supplies or equipment furnished the grant recipient by the Secretary. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment on which the reduction of such grant is based. Such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.

(d) For the purpose of making grants and contracts under this section, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1971; $60,000,000 for the fiscal year ending June 30, 1972; $111,500,000 for the fiscal year ending June 30, 1973; $111,500,000 each for the fiscal years ending June 30, 1974, and June 30, 1975; $115,000,000 for fiscal year 1976; $115,000,000 for the fiscal year ending September 30, 1977; $136,400,000 for the fiscal year ending September 30, 1978; $200,000,000 for the fiscal year ending September 30, 1979; $230,000,000 for the fiscal year ending September 30, 1980; $264,500,000 for the fiscal year ending September 30, 1981; $126,510,000 for the fiscal year ending September 30, 1982; $139,200,000 for the fiscal year ending September 30, 1983; $150,030,000 for the fiscal year ending September 30, 1984; and $158,400,000 for the fiscal year ending September 30, 1985.

FORMULA GRANTS TO STATES FOR FAMILY PLANNING SERVICES

SEC. 1002. [300a] (a) The Secretary is authorized to make grants, from allotments made under subsection (b), to State health authorities to assist in planning, establishing, maintaining, coordinating, and evaluating family planning services. No grant may be made to a State health authority under this section unless such authority has submitted, and had approved by the Secretary, a State plan for a coordinated and comprehensive program of family planning services.

(b) The sums appropriated to carry out the provisions of this section shall be allotted to the States by the Secretary on the basis of the population and the financial need of the respective States.

(c) For the purposes of this section, the term "State" includes the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, the Virgin Islands, the District of Columbia, and the Trust Territory of the Pacific Islands.

(d) For the purpose of making grants under this section, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1971; $15,000,000 for the fiscal year ending June 30, 1972; and $20,000,000 for the fiscal year ending June 30, 1973.

TRAINING GRANTS AND CONTRACTS

SEC. 1003. [300a-1] (a) The Secretary is authorized to make grants to public or nonprofit private entities and to enter into contracts with public or private entities and individuals to provide the training for personnel to carry out family planning service programs described in section 1001 or 1002.

(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1971; $3,000,000 for the fiscal year ending June 30, 1972; $4,000,000 for the fiscal year ending June 30, 1973; and $3,000,000 each for the fiscal years ending June 30, 1974, and June 30, 1975; $4,000,000 for fiscal year 1976; $5,000,000 for the fiscal year ending September 30, 1977; $3,000,000 for the fiscal year ending September 30, 1978; $3,100,000 for the fiscal year ending September 30, 1979; $3,600,000 for the fiscal year ending September 30, 1980; $4,100,000 for the fiscal year ending September 30, 1981; $2,920,000 for the fiscal year ending September 30, 1982; $3,200,000 for the fiscal year ending September 30, 1983; $3,500,000 for the fiscal year ending September 30, 1984; and $3,500,000 for the fiscal year ending September 30, 1985.

RESEARCH

SEC. 1004. [300a-2] The Secretary may—

(1) conduct, and

(2) make grants to public or nonprofit private entities and enter into contracts with public or private entities and individuals for projects for,

research in the biomedical, contraceptive development, behavioral, and program implementation fields related to family planning and population.

INFORMATIONAL AND EDUCATIONAL MATERIALS

SEC. 1005. [300a–3] (a) The Secretary is authorized to make grants to public or nonprofit private entities and to enter into contracts with public or private entities and individuals to assist in developing and making available family planning and population growth information (including educational materials) to all persons desiring such information (or materials).

(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $750,000 for the fiscal year ending June 30, 1971; $1,000,000 for the fiscal year ending June 30, 1972; $1,250,000 for the fiscal year ending June 30, 1973; $909,000 each for the fiscal years ending June 30, 1974, and June 30, 1975; $2,000,000 for fiscal year 1976; $2,500,000 for the fiscal year ending September 30, 1977; $600,000 for the fiscal year ending September 30, 1978; $700,000 for the fiscal year ending September 30, 1979; $805,000 for the fiscal year ending September 30, 1980; $926,000 for the fiscal year ending September 30, 1981; $570,000 for the fiscal year ending September 30, 1982; $600,000 for the fiscal year ending September 30, 1983; $670,000 for the fiscal year ending September 30, 1984; and $700,000 for the fiscal year ending September 30, 1985.

REGULATIONS AND PAYMENTS

SEC. 1006. [300a–4] (a) Grants and contracts made under this title shall be made in accordance with such regulations as the Secretary may promulgate. The amount of any grant under any section of this title shall be determined by the Secretary; except that no grant under any such section for any program or project for a fiscal year beginning after June 30, 1975, may be made for less than 90 per centum of its costs (as determined under regulations of the Secretary) unless the grant is to be made for a program or project for which a grant was made (under the same section) for the fiscal year ending June 30, 1975, for less than 90 per centum of its costs (as so determined), in which case a grant under such section for that program or project for a fiscal year beginning after that date may be made for a percentage which shall not be less than the percentage of its costs for which the fiscal year 1975 grant was made.

(b) Grants under this title shall be payable in such installments and subject to such conditions as the Secretary may determine to be appropriate to assure that such grants will be effectively utilized for the purposes for which made.

(c) A grant may be made or contract entered into under section 1001 or 1002 for a family planning service project or program only upon assurances satisfactory to the Secretary that—

(1) priority will be given in such project or program to the furnishing of such services to persons from low-income families; and

(2) no charge will be made in such project or program for services provided to any person from a low-income family except to the extent that payment will be made by a third party (including a government agency) which is authorized or is under legal obligation to pay such charge.

For purposes of this subsection, the term "low-income family" shall be defined by the Secretary in accordance with such criteria as he may prescribe so as to insure that economic status shall not be a deterrent to participation in the programs assisted under this title.

(d)(1) A grant may be made or a contract entered into under section 1001 or 1005 only upon assurances satisfactory to the Secretary that informational or educational materials developed or made available under the grant or contract will be suitable for the purposes of this title and for the population or community to which they are to be made available, taking into account the educational and cultural background of the individuals to whom such materials are addressed and the standards of such population or community with respect to such materials.

(2) In the case of any grant or contract under section 1001, such assurances shall provide for the review and approval of the suitability of such materials, prior to their distribution, by an advisory committee established by the grantee or contractor in accordance with the Secretary's regulations. Such a committee shall include individuals broadly representative of the population or community to which the materials are to be made available.

VOLUNTARY PARTICIPATION

SEC. 1007. [300a–5] The acceptance by any individual of family planning services or family planning or population growth information (including educational materials) provided through financial assistance under this title (whether by grant or contract) shall be voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program of the entity or individual that provided such service or information.

PROHIBITION OF ABORTION

SEC. 1008. [300a–6] None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning.

PLANS AND REPORTS

SEC. 1009. (a) Not later than seven months after the close of each fiscal year, the Secretary shall make a report to the Congress setting forth a plan to be carried out over the next five fiscal years for—

(1) extension of family planning services to all persons desiring such services,

(2) family planning and population research programs,

(3) training of necessary manpower for the programs authorized by this title and other Federal laws for which the Secretary has responsibility and which pertain to family planning, and

Section 1009 repealed by P.L. 105-362, Federal Reports Elimination Act of 1998

(4) carrying out the other purposes set forth in this title and the Family Planning Services and Population Research Act of 1970.

(b) Such a plan shall, at a minimum, indicate on a phased basis—

(1) the number of individuals to be served by family planning programs under this title and other Federal laws for which the Secretary has responsibility, the types of family planning and population growth information and educational materials to be developed under such laws and how they will be made available, the research goals to be reached under such laws, and the manpower to be trained under such laws;

(2) an estimate of the costs and personnel requirements needed to meet the purposes of this title and other Federal laws for which the Secretary has responsibility and which pertain to family planning programs; and

(3) the steps to be taken to maintain a systematic reporting system capable to yielding comprehensive data on which service figures and program evaluations for the Department of Health, Education, and Welfare shall be based.

(c) Each report submitted under subsection (a) shall—

(1) compare results achieved during the preceding fiscal year with the objectives established for such year under the plan contained in the previous such report;

(2) indicate steps being taken to achieve the objectives during the fiscal years covered by the plan contained in such report and any revisions to plans in previous reports necessary to meet these objectives; and

(3) make recommendations with respect to any additional legislative or administrative action necessary or desirable in carrying out the plan contained in such report.

Public Law 91-572
91st Congress, S. 2108
December 24, 1970

An Act

To promote public health and welfare by expanding, improving, and better coordinating the family planning services and population research activities of the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Family Planning Services and Population Research Act of 1970.

SHORT TITLE

SECTION 1. This Act may be cited as the "Family Planning Services and Population Research Act of 1970".

DECLARATION OF PURPOSE

SEC. 2. It is the purpose of this Act—

(1) to assist in making comprehensive voluntary family planning services readily available to all persons desiring such services;

(2) to coordinate domestic population and family planning research with the present and future needs of family planning programs;

(3) to improve administrative and operational supervision of domestic family planning services and of population research programs related to such services;

(4) to enable public and nonprofit private entities to plan and develop comprehensive programs of family planning services;

(5) to develop and make readily available information (including educational materials) on family planning and population growth to all persons desiring such information;

(6) to evaluate and improve the effectiveness of family planning service programs and of population research;

(7) to assist in providing trained manpower needed to effectively carry out programs of population research and family planning services; and

(8) to establish an Office of Population Affairs in the Department of Health, Education, and Welfare as a primary focus within the Federal Government on matters pertaining to population research and family planning, through which the Secretary of Health, Education, and Welfare (hereafter in this Act referred to as the "Secretary") shall carry out the purposes of this Act.

OFFICE OF POPULATION AFFAIRS

Establishment. Deputy Assistant Secretary for Population Affairs, appointment.

SEC. 3. (a) There is established within the Department of Health, Education, and Welfare an Office of Population Affairs to be directed by a Deputy Assistant Secretary for Population Affairs under the direct supervision of the Assistant Secretary for Health and Scientific Affairs. The Deputy Assistant Secretary for Population Affairs shall be appointed by the Secretary.

Staff and consultants.

(b) The Secretary is authorized to provide the Office of Population Affairs with such full-time professional and clerical staff and with the services of such consultants as may be necessary for it to carry out its duties and functions.

FUNCTIONS OF THE DEPUTY ASSISTANT SECRETARY FOR POPULATION AFFAIRS

SEC. 4. The Secretary shall utilize the Deputy Assistant Secretary for Population Affairs—

(1) to administer all Federal laws for which the Secretary has administrative responsibility and which provide for or authorize the making of grants or contracts related to population research and family planning programs;

(2) to administer and be responsible for all population and family planning research carried on directly by the Department of Health, Education, and Welfare or supported by the Department through grants to, or contracts with, entities and individuals;

(3) to act as a clearinghouse for information pertaining to domestic and international population research and family planning programs for use by all interested persons and public and private entities;

(4) to provide a liaison with the activities carried on by other agencies and instrumentalities of the Federal Government relating to population research and family planning;

(5) to provide or support training for necessary manpower for domestic programs of population research and family planning programs of service and research; and

(6) to coordinate and be responsible for the evaluation of the other Department of Health, Education, and Welfare programs related to population research and family planning and to make periodic recommendations to the Secretary.

PLANS AND REPORTS

Report to Congress.

SEC. 5. (a) Not later than six months after the date of enactment of this Act the Secretary shall make a report to the Congress setting forth a plan, to be carried out over a period of five years, for extension of family planning services to all persons desiring such services, for family planning and population research programs, for training of necessary manpower for the programs authorized by title X of the Public Health Service Act and other Federal laws for which the Secretary has responsibility, and for carrying out the other purposes set forth in this Act and in such title X.

Post, p. 1506.

(b) Such a plan shall, at a minimum, indicate on a phased basis—

(1) the number of individuals to be served by family planning programs under title X of the Public Health Service Act and other Federal laws for which the Secretary has responsibility, the types of family planning and population growth information and educational materials to be developed under such laws and how they will be made available, the research goals to be reached under such laws, and the manpower to be trained under such laws;

(2) an estimate of the costs and personnel requirements needed to meet these objectives; and

(3) the steps to be taken to establish a systematic reporting system capable of yielding comprehensive data on which service figures and program evaluations for the Department of Health, Education, and Welfare shall be based.

Reports to Congress.

(c) On or before January 1, 1972, and on or before each January 1 thereafter for a period of five years, the Secretary shall submit to the Congress a report which shall—

(1) compare results achieved during the preceding fiscal year with the objectives established for such year under the plan;

(2) indicate steps being taken to achieve the objective during the remaining fiscal years of the plan and any revisions necessary to meet these objectives; and

(3) make recommendations with respect to any additional legislative or administrative action necessary or desirable in carrying out the plan.

AMENDMENTS TO PUBLIC HEALTH SERVICE ACT

SEC. 6. (a) Section 1 of the Public Health Service Act is amended by striking out "Titles I to IX" and inserting in lieu thereof "Titles I to X". 79 Stat. 930. 42 USC 201 note.

(b) The Act of July 1, 1944 (58 Stat. 682), as amended, is further amended by renumbering title X (as in effect prior to the enactment of this Act) as title XI, and by renumbering sections 1001 through 1014 (as in effect prior to the enactment of this Act), and references thereto, as sections 1101 through 1114, respectively.

(c) The Public Health Service Act (42 U.S.C., ch. 6A) is further amended by adding after title IX the following new title:

"TITLE X—POPULATION RESEARCH AND VOLUNTARY FAMILY PLANNING PROGRAMS

"PROJECT GRANTS AND CONTRACTS FOR FAMILY PLANNING SERVICES

"SEC. 1001. (a) The Secretary is authorized to make grants to and enter into contracts with public or nonprofit private entities to assist in the establishment and operation of voluntary family planning projects.

"(b) In making grants and contracts under this section the Secretary shall take into account the number of patients to be served, the extent to which family planning services are needed locally, the relative need of the applicant, and its capacity to make rapid and effective use of such assistance.

"(c) For the purpose of making grants and contracts under this section, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1971; $60,000,000 for the fiscal year ending June 30, 1972; and $90,000,000 for the fiscal year ending June 30, 1973. Appropriation.

"FORMULA GRANTS TO STATES FOR FAMILY PLANNING SERVICES

"SEC. 1002. (a) The Secretary is authorized to make grants, from allotments made under subsection (b), to State health authorities to assist in planning, establishing, maintaining, coordinating, and evaluating family planning services. No grant may be made to a State health authority under this section unless such authority has submitted, and had approved by the Secretary, a State plan for a coordinated and comprehensive program of family planning services.

"(b) The sums appropriated to carry out the provisions of this section shall be allotted to the States by the Secretary on the basis of the population and the financial need of the respective States.

"(c) For the purposes of this section, the term 'State' includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the District of Columbia, and the Trust Territory of the Pacific Islands. "State."

"(d) For the purpose of making grants under this section, there are authorized to be appropriated $10,000,000 for the fiscal year ending Appropriation.

June 30, 1971; $15,000,000 for the fiscal year ending June 30, 1972; and $20,000,000 for the fiscal year ending June 30, 1973.

"TRAINING GRANTS AND CONTRACTS

"SEC. 1003. (a) The Secretary is authorized to make grants to public or nonprofit private entities and to enter into contracts with public or private entities and individuals to provide the training for personnel to carry out family planning service programs described in section 1001 or 1002.

Appropriation. "(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1971; $3,000,000 for the fiscal year ending June 30, 1972; and $4,000,000 for the fiscal year ending June 30, 1973.

"RESEARCH GRANTS AND CONTRACTS

"SEC. 1004. (a) In order to promote research in the biomedical, contraceptive development, behavioral, and program implementation fields related to family planning and population, the Secretary is authorized to make grants to public or nonprofit private entities and to enter into contracts with public or private entities and individuals for projects for research and research training in such fields.

Appropriation. "(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1971; $50,000,000 for the fiscal year ending June 30, 1972; and $65,000,000 for the fiscal year ending June 30, 1973.

"INFORMATIONAL AND EDUCATIONAL MATERIALS

"SEC. 1005. (a) The Secretary is authorized to make grants to public or nonprofit private entities and to enter into contracts with public or private entities and individuals to assist in developing and making available family planning and population growth information (including educational materials) to all persons desiring such information (or materials).

Appropriation. "(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $750,000 for the fiscal year ending June 30, 1971; $1,000,000 for the fiscal year ending June 30, 1972; and $1,250,000 for the fiscal year ending June 30, 1973.

"REGULATIONS AND PAYMENTS

"SEC. 1006. (a) Grants and contracts made under this title shall be made in accordance with such regulations as the Secretary may promulgate.

"(b) Grants under this title shall be payable in such installments and subject to such conditions as the Secretary may determine to be appropriate to assure that such grants will be effectively utilized for the purposes for which made.

"(c) A grant may be made or contract entered into under section 1001 or 1002 for a family planning service project or program only upon assurances satisfactory to the Secretary that—

"(1) priority will be given in such project or program to the furnishing of such services to persons from low-income families; and

"(2) no charge will be made in such project or program for services provided to any person from a low-income family except to the extent that payment will be made by a third party (including a government agency) which is authorized or is under legal obligation to pay such charge.

For purposes of this subsection, the term 'low-income family' shall be defined by the Secretary in accordance with such criteria as he may prescribe. "Low-income family."

"VOLUNTARY PARTICIPATION

"SEC. 1007. The acceptance by any individual of family planning services or family planning or population growth information (including educational materials) provided through financial assistance under this title (whether by grant or contract) shall be voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program of the entity or individual that provided such service or information.

"PROHIBITION OF ABORTION

"SEC. 1008. None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning."

Approved December 24, 1970.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 91-1472 accompanying H.R. 19318 (Comm. on Interstate and Foreign Commerce) and No. 91-1667 (Comm. of Conference).
SENATE REPORT No. 91-1004 (Comm. on Labor and Public Welfare).
CONGRESSIONAL RECORD, Vol. 116 (1970):
July 14, considered and passed Senate.
Nov. 16, considered and passed House, amended, in lieu of H.R. 19318.
Dec. 8, House agreed to conference report.
Dec. 10, Senate agreed to conference report.

GPO 46-139

FY 2000 "Side-by-Side" Comparison for Abortion Provisions

	FY 1999 Enacted	FY 2000 President's Budget	FY 2000 House	FY 2000 Senate	FY 2000 Conference	FY 2000 Enacted
DC	Sec. 131. No funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.	Same as FY 1999 Budget, i.e., the Administration proposes to delete this provision and add the footnote that the Administration will work with Congress on this issue.	Section 129. Same as FY 1999 Enacted.	Sec. 129. Same as FY 1999 Enacted.	Sec. 129. Same as FY 1999 Enacted.	Bill was vetoed.
C/J/S	Sec. 103. Repeated FY 1998 Enacted language. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape: Provided, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.	Same as FY 1999 Budget i.e., the Administration proposes to delete this provision and add a footnote that the Administration will work with Congress on this issue.	Sec. 103. Same as FY 1999 Enacted.	Sec. 103. Same as FY 1999 Enacted		
C/J/S	Sec. 104. Repeated FY 1998 Enacted language. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of any abortion.	Sec. 103. Same as FY 1999 Sec. 104 Enacted.	Sec. 104. Same as FY 1999 Enacted	Sec. 104 Same as FY 1999 Enacted.		
C/J/S	Sec. 105. Repeated FY 1998 Enacted language. Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: Provided, That nothing in this section in any way diminishes the effect of section 104 intended to address the philosophical beliefs of individuals employees of the Bureau of Prisons.	Sec. 104. Same as FY 1999 Sec. 105 Enacted.	Sec. 105. Same as FY 1999 Enacted.	Sec. 105. Same as FY 1999 Enacted.		
L/HHS/Ed **Hyde Amendt**	Sec. 508. (a) None of the funds appropriated under this Act, and none of the funds in any trust fund to which funds are appropriated under this Act, shall be expended for any abortion. (b) None of the funds appropriated under this Act, and none of the funds in any trust fund to which funds are appropriated under this Act, shall be expended for health benefits coverage that includes coverage of abortion. (c) The term "health benefits coverage" means the package of services covered by a managed care provider or organization pursuant to a contract or other arrangement.	Same as FY 1999 Budget, i.e., propose deletion and add footnote: "The Administration proposes to delete this provision and will work with Congress to address this issue."	Sec. 508. Same as FY 1999 Enacted.	Sec. 508. Same as FY 1999 Enacted.		

	FY 1999 Enacted	FY 2000 President's Budget	FY 2000 House	FY 2000 Senate	FY 2000 Conference	FY 2000 Enacted
L/HHS/Ed **Hyde Amend-ment**	Sec. 509. (a) The limitations established in the preceding section shall not apply to an abortion-(1) if the pregnancy is the result of an act of rape or incest; or (2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed. (b) Nothing in the preceding section shall be construed as prohibiting the expenditure by a State, locality, entity, or private person of State, local, or private funds (other than a State's or locality's contribution of Medicaid matching funds). (c) Nothing in the preceding section shall be construed as restricting the ability of any managed care provider from offering abortion coverage or the ability of a State or locality to contract separately with such a provider for such coverage with State funds (other than a State's or locality's contribution of Medicaid matching funds).	Same as FY 1999 Budget, i.e., propose deletion and add footnote: "The Administration proposes to delete this provision and will work with Congress to address this issue."	Sec. 509. Same as FY 1999 Enacted.	Sec. 509. Same as FY 1999 Enacted.		
L/HHS/Ed **Medicare+ Choice**	Sec. 216. None of the funds appropriated by this Act (including funds appropriated to any trust fund) may be used to carry out the Medicare+Choice program if the Secretary denies participation in such program to an otherwise eligible entity (including a Provider Sponsored Organization) because the entity informs the Secretary that it will not provide, pay for, provide coverage of, or provide referrals for abortions: Provided, That the Secretary shall make appropriate prospective adjustments to the capitation payment to such an entity (based on an actuarially sound estimate of the expected costs of providing the service to such entity's enrollees): Provided further, That nothing in this section shall be construed to change the Medicare program's coverage for such services and a Medicare+Choice organization described in this section shall be responsible for informing enrollees where to obtain information about all Medicare covered services.	Sec. 210. Same as FY 1999 Enacted.	Sec. 210. Same as FY 1999 Enacted.	Sec. 210. Same as FY 1999 Enacted.		

	FY 1999 Enacted	FY 2000 President's Budget	FY 2000 House	FY 2000 Senate	FY 2000 Conference	FY 2000 Enacted
Foreign Ops	Sec. 518. Same as FY 1997 Enacted language. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations: Provided, That none of the funds made available under this Act may be used to lobby for or against abortion.	Sec. 516. Same as FY 1999 Sec. 518 Enacted.	Sec. 518. Same as FY 1999 Enacted.	Sec. 518. Same as FY 1999 Enacted.	Sec. 518. Same as FY 1999 Enacted.	
Foreign Ops	N/A	N/A	N/A	**New provision** **Sec 519. In determining eligibility for assistance from funds appropriated to carry out Section 104 of the Foreign Assistance Act of 1961, non-governmental and multilateral organizations shall not be subjected to requirements more restrictive than the requirements applicable to foreign governments for such assistance.**	N/A	
Foreign Ops	Sec. 580. (a) Not to exceed $385,000,000 of the funds appropriated in title II of this Act may be available for population planning activities or other population assistance. (b) Such funds may be apportioned only on a monthly basis, and such monthly apportionments may not exceed 8.34 percent of the total available for such activities.	The Administration proposed to delete this provision.	Sec. 574. Not to exceed $385,000,000 of the funds appropriated in title II of this act may be available for population planning activities or other population assistance.	Under the Development Assistance heading, provides for not less than $425,000,000 of the funds appropriated under this heading shall be made available to carry our the provisions of section 104(b) of the Foreign Assistance Act of 1961. No monthly metering is included.	The Conference bill does not include this provision.	

	FY 1999 Enacted	FY 2000 President's Budget	FY 2000 House	FY 2000 Senate	FY 2000 Conference	FY 2000 Enacted
Foreign Ops	N/A	N/A	**New Provisions:** Sec. 585. (A) Section is amended ...(h) Restriction on Assistance to Foreign organizations That Perform or Actively Promote Abortions (1) ...No funds appropriated for population planning activities or other populations assistance may be made available for any foreign private, nongovernmental, or multilateral organization until the organizations certifies that it will not, during the period for which the funds are made available, perform abortions in any foreign country, except where the life of the mother would be in danger if the pregnancy would be carried to term or in cases of forcible rape or incest. (B) ..may not be construed to apply to the treatment or injuries or illness cuased by legal or illegal abortions or to assistance provided directly to the government of a country. (2) Lobbying activities... Sec. 586. (a) None of the funds appropriated or otherwise made available for population planning activities or other population assistance under title II of this Act may be made available to a foreign nongovernmental organization unless the organization certifies that - (1)it will not use such funds to promote abortions as a method of family planning or to lobby for or against abortion; (2) it will use such funds that are made available for family planning services to reduce the incidence of abortion as a method of family planning; (3) it will not violate the laws or policies of foreign government relating to the circumstances under which abortion is permitted...(4) it will not engage in any activities or efforts in violation of applicable laws..	N/A	N/A	

	FY 1999 Enacted	FY 2000 President's Budget	FY 2000 House	FY 2000 Senate	FY 2000 Conference	FY 2000 Enacted
Foreign Ops	Sec. 543. (a) Assistance Through Nongovernmental Organizations. --Restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance in support of programs of nongovernmental organizations from funds appropriated by this Act to carry out the provisions of chapters 1, 10,and 11 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, and from funds appropriated under the heading ``Assistance for Eastern Europe and the Baltic States'': Provided, That the President shall take into consideration, in any case in which a restriction on assistance would be applicable but for this subsection, whether assistance in support of programs of nongovernmental organizations is in the national interest of the United States: Provided further, That before using the authority of this subsection to furnish assistance in support of programs of nongovernmental organizations, the President shall notify the Committees on Appropriations under the regular notification procedures of those committees, including a description of the program to be assisted, the assistance to be provided, and the reasons for furnishing such assistance: Provided further, That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion or involuntary sterilizations contained in this or any other Act. (b) Public Law 480 . .	Sec. 532. Same as FY 1999 Sec. 543 Enacted.	Sec. 541. Same as FY 1999 Enacted.	Sec. 543. Same as FY 1999 Enacted.	Sec. 541. Same as FY 1999 Enacted.	

	FY 1999 Enacted	FY 2000 President's Budget	FY 2000 House	FY 2000 Senate	FY 2000 Conference	FY 2000 Enacted
Foreign Ops **Agency for Internat'l Developmt**	For necessary expenses to carry out. . . Provided further, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: Provided further, That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services, and that any such voluntary family planning project shall meet the following requirements: (1) service providers or referral agents in the project shall not implement or be subject to quotas, or other numerical targets, of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning (this provision shall not be construed to include the use of quantitative estimates or indicators for budgeting and planning purposes), (2) the project shall not include payment of incentives, bribes, gratuities, or financial reward to (A) an individual in exchange for becoming a family planning acceptor, or (B) program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning services, (3) the project shall not deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any individual's decision not to accept family planning services, (4) the project shall provide family planning acceptors comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method, (5) the project shall ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits; and, not less than 60 days after the date on which the Administrator of the United States Agency for International Development determines that there has been a violation of the requirements contained in paragraph (1), (2), (3), or (5) of this proviso, or a pattern or practice of violations of the requirements contained in paragraph (4) of this proviso, the Administrator shall submit to the Committee on International Relations and the Committee on Appropriations of the House of Representatives and to the Committee on Foreign Relations and the Committee on	Same as FY 1999 Enacted.	Same as FY 1999 Enacted.	Same as FY 1998 Enacted, which does not include requirements for voluntary family planning projects: "For necessary expenses to carry out ...Provided further, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: Provided further, That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services; Provided further, That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and additionally, all such applicants shall comply with the requirements of the previous proviso: Provided further, That for purposes of this or any other Act authorizing or appropriations funds for foreign operations, export financing, and related programs, the term "motivate", as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options: Provided further, That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961; Provided further ..."	Same as FY 1999 Enacted.	

	FY 1999 Enacted	FY 2000 President's Budget	FY 2000 House	FY 2000 Senate	FY 2000 Conference	FY 2000 Enacted
Foreign Ops Cont'd	Appropriations of the Senate, a report containing a description of such violation and the corrective action taken by the Agency: Provided further, That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: Provided further, That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term``motivate'', as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options: Provided further, That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961: Provided further, . . .					
Foreign Ops Peace Corps	For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $240,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States, Provided, That none of the funds appropriated under this heading shall be used to pay for abortions: Provided further, That funds appropriated under this heading shall remain available until September 30, 2000.	Delete the sentence, "Provided, That none of the funds appropriated under this heading shall be used to pay for abortions" and add footnote: "The Administration proposes to delete this provision and will work with Congress to address this issue."	Same as FY 1999 Enacted.	Same as FY 1999 Enacted.	Same as FY 1999 Enacted.	
Treasury/ General Govern-ment FEHB Prohibition	Sec. 509. Same as FY 1998 Enacted language. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortion.	Same as FY 1999 President's Budget, i.e., delete the provision. In addition add the footnote, consistent with other abortion provisions that reads: "The Administration proposes to delete this provision and will work with Congress to address this issue."	Sec. 509. Same as FY 1999 Enacted.	The Senate excludes this provision.	Sec. 509. Same as FY 1999 Enacted.	Sec. 509. Same as FY 1999 Enacted.

	FY 1999 Enacted	FY 2000 President's Budget	FY 2000 House	FY 2000 Senate	FY 2000 Conference	FY 2000 Enacted
Treasury/ General Govern-ment **FEHB Prohibition**	Sec. 510. Same as FY 1998 Enacted language. The provision of section 509 shall not apply where the life of the mother would be endangered if the fetus were carried to term, or the pregnancy is the result of an act of rape or incest.	Same as FY 1999 President's Budget, i.e., delete the provision. In addition add the footnote, consistent with other abortion provisions that reads: "The Administration proposes to delete this provision and will work with Congress to address this issue."	Sec. 510. Same as FY 1999 Enacted.	The Senate excludes this provision.	Sec. 510. Same as FY 1999 Enacted.	Sec. 510. Same as FY 1999 Enacted.
Treasury/G eneral Govern-ment	Sec. 656. (a) None of the funds appropriated by this Act may be used to enter into or renew a contract which includes a provision providing prescription drug coverage, except where the contract also includes a provision for contraceptive coverage. (b) Nothing in this section shall apply to a contract with: (1) any of the following religious plans: (A) SelectCare (B) Personal CaresHMO (C) Care Choices (D) OSF Health Plans, Inc. (E) Yellowstone Community Health Plan (2) any existing or future plan, if the plan objects to such coverage on the basis of religious beliefs. (c) In implementing this section, any plan that enters into or renews a contract under this section may not subject any individual to discrimination on the basis that the individual refuses to prescribe contraceptives because such activities would be contrary to the individual's religious beliefs or moral convictions. (d) Nothing in this section shall be construed to require coverage of abortion or abortion-related services.	Same as FY 1999 Enacted.	Sec. 635. Same as FY 1999 Enacted, except that SelectCare is deleted under (A) and Providence Health Plan is added.	Sec. 634. Same as FY 1999 Enacted, except that SelectCare is deleted under (A) and Providence Health Plan is added.	Sec. 635. Same as FY 1999 Enacted, except that SelectCare is deleted under (A) and Providence Health Plan is added.	Sec. 635. Same as FY 1999 Enacted, except that SelectCare is deleted under (A) and Providence Health Plan is added.

Combating Clinic Violence

In the wake of escalating violence against women's health clinics that provide abortions, the President's FY 2000 budget will include $4.5 million to support additional security for these clinics and their doctors and nurses. Under this proposal, the Department of Justice will make security assessments and enhancements available to clinics deemed to be at high risk of violence. Security enhancements to improve safety and better protect health care providers and their patients may include closed circuit camera systems, improved lighting, motion detectors, alarm systems or bullet-resistant windows. Initial estimates suggest that $4.5 million will address security review and improvement needs for approximately 250-300 clinics (approximately 10% of all clinics nationwide).

In recent years, violence against women's health care clinics has intensified. Most recently, Dr. Bernard Slepian was fatally shot through the window of his home. His death followed four non-fatal shootings in western New York and Canada over the last four years. In addition to shootings, between May and July of this year, about 20 health care clinics in three states were splattered with isobutyric acid, and two clinics in North Carolina were the victims of arson and attempted bombings. Clinics in Indiana, Tennessee, Kansas and Kentucky received letters that falsely claimed to contain anthrax.

This FY 2000 budget proposal builds on the Justice Department's National Task Force on Violence Against Health Care Providers announced on November 9 to coordinate the investigation of violence against women's health care clinics nationwide. The Task Force has begun working closely with local authorities and U.S. Attorneys investigating acts of violence against clinics by: coordinating national investigative efforts; creating an investigative clearinghouse for information related to clinic violence; and providing training to federal, state and local law enforcement personnel. A key missing piece in preventing clinic violence is funding for greater security. The Task Force, given its expertise on clinic violence, will serve as an advisor in the administration of these funds.

THE WHITE HOUSE
WASHINGTON

OFFICE FOR WOMEN'S INITIATIVES AND OUTREACH

TO: Ruby

FAX: 6-6687

DATE: 10/12/99

NUMBER OF PAGES (INCLUDING COVER SHEET): 7

FROM:
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- ✓ Sondra Seba, Agency Representative
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NOTES: per your request

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1199

PRESIDENT CLINTON AND VICE PRESIDENT GORE: STANDING UP FOR A WOMAN'S RIGHT TO CHOOSE

"I'm committed to keeping abortions safe, legal, and accessible -and to making it more rare...I will continue to do everything I can to make sure that every child in America is a wanted child, raised in a loving, strong family."

--President Bill Clinton, January 22, 1998

Throughout his Presidency, President Clinton and Vice President Gore have worked hard to protect a woman's right to choose and to promote safe reproductive health services for women.

Provided Contraceptive Coverage to More than a Million Women. The FY99 Omnibus Appropriations Act contains an important policy breakthrough on reproductive choice. The final bill requires the 300 Federal Employees Health Benefits Plans (FEHBP) to cover contraceptive drugs and devices, providing coverage to approximately 1.2 million women of childbearing age. Until now, only 19% of federal health plans covered prescription contraceptives and 10% of the plans offered no contraceptive coverage at all. The Republican Leadership tried to remove this measure, but President Clinton and pro-choice members remained firm.

Increased Funding for Family Planning. In the FY99 Omnibus Appropriations Act, the President won an increase of $12 million over FY98 levels for family planning services or Title X Family Planning grants. The House-version would have denied any additional funds.

Stopped the Coburn Amendment Which Would Have Prohibited the FDA from Approving RU-486. On January 22, 1993, President Clinton reversed the ban on the importation of Mifepristone or RU-486; RU-486 is currently under review by the Food and Drug Administration (FDA). Unfortunately, the FDA's scientific drug approval process became under assault in the 105th Congress. President Clinton threatened to veto a provision that would have prevented the FDA from using government funds to test, develop or approve drugs that may induce medical abortion, including RU-486. Because of the President's veto threat, Republicans backed down and decided not to attach this provision to any funding bill.

Defeated Parental Consent Restrictions on Contraceptives for Minors. The House voted to require minors to obtain parental consent prior to receiving any Title X family planning services (this has also been referred to as the Istook amendment). The President's veto threat helped to keep it out of the final bill.

Stopped the So-Called "Child Custody Protection" Act. Senior Clinton Administration Advisers recommended a veto of this bill which would have made it illegal to transport a minor across State lines for the purpose of avoiding parental consent or notification laws. The Clinton Administration, as detailed in the Statement of Administration Policy, was very concerned that the bill didnot protect close family members --including grandmothers, aunts and siblings --from criminal and civil liability

Family members could face criminal charges for aiding a relative in distress. The bill also did not protect persons that only provide information, counseling, referral or medical services to the minor from liability. Under a veto threat, the Senate failed to invoke cloture (or end debate) on the Child Custody Protection Act.

Upheld the Late Term Abortion Veto. This year, the House of Representatives voted to override President Clinton's veto of a bill banning certain late-term abortions, known by proponents of the ban as "partial birth abortions." While the House voted to override the President's action, the Senate sustained the veto by a vote of 36-64 --just three votes short of the required two-thirds majority needed to override the veto. President Clinton vetoed the measure in October 1997 because it did not contain an exception that protected the health or life of the woman.

Continued to Fight Restrictions on International Family Planning. The FY99 Omnibus Appropriations Act does not contain the so-called "Mexico City" policy, a provision that denies U.S. funds to international family planning organizations that use their own resources to perform abortions or lobby on abortion policy. The Mexico City restrictions were also included in the Foreign Affairs Reform and Restructuring Act. President Clinton vetoed this legislation because it contained these unacceptable restrictions.

THE CLINTON ADMINISTRATION'S SUPPORT FOR FAMILY PLANNING AND CLINIC SAFETY

NEW STEPS TOWARDS PROVIDING SAFE, EFFECTIVE FAMILY PLANNING SERVICES FOR AMERICAN WOMEN. The Clinton Administration is committed to expanding and enhancing the quality of reproductive health services for all American women.

Largest Increase in Family Planning Services in 15 Years. The President's FY 2000 budget includes $240 million for family planning, a $25 million increase, and the largest increase in 15 years. These grants fund family planning clinics providing reproductive health services and clinical care to over 5 million low income women. These new funds will be used to prevent over a million unintended pregnancies a year by improving the delivery of comprehensive reproductive health services, including STD and cancer screening and prevention, and HIV prevention, education and counseling; providing educational programs that encourage adolescents to postpone of sexual activity; increase the accessibility of contraceptive counseling and services; increasing efforts to provide effective contraceptives to those in need; and developing partnerships with other community based providers to conduct outreach to adolescents at risk.

Preventing violence at women's health clinics. In the wake of escalating violence against women's health clinics that provide abortions, the President's FY 2000 budget includes $4.5 million for support of additional security enhancements, including closed circuit camera systems, improved lighting, motion detectors, alarm systems and bullet-resistant windows for these clinics in order to protect their doctors and nurses. Under this proposal, the Department of Justice would make security assessments and enhancements available to clinics deemed to be at high risk of violence. This Administration is committed to fighting this form of domestic terrorism that has threatened so many clinics and providers.

Contributing $25 million to the UNFPA. The President's FY 2000 budget proposes a $25 million voluntary contribution to the UNFPA, $5 million more than the President's FY 1999 budget proposal. The UN Population Fund is the largest multilateral donor organization in the population sector and concentrates its assistance to countries in the areas of reproductive health and voluntary family planning, population policy and advocacy.

Ensuring that Federal employees have access to comprehensive family planning services. The FY 2000 budget also continues to ensure that the Federal government leads the way as a model health plan by assuring that Federal employees and their families participating in the 300 Federal Employees Health Benefit Program (FEHBP) have access to contraceptive coverage. This policy provides coverage to approximately 1.2 million women of childbearing age and reduces unwanted pregnancies and the need for abortions by requiring most FEHB plans to offer the full range of contraceptive services. Before this requirement, only 19%of federal health plans covered prescription contraceptives and 10% of the plans offered no contraceptive coverage at all.

GOVERNMENT RELATIONS REPORT

Ruby This is fairly current too! SS

NAF's Report on Federal and State Action on Abortion Issues September, 1999

On the Federal Level:

9/21 – Representative Mary Bono (R-California), Representative Joseph Pitts (R-Pennsylvania), and Senator Rick Santorum (R-Pennsylvania) introduced legislation that would direct federal funds to crisis pregnancy centers, maternity homes and adoption services. The grants created by the "Women and Children's Resources Act" would not be available to family planning centers or other agencies that refer women to abortion providers, provide abortion counseling or perform abortions. Federal money would be allocated to each state based on the number of abortions and out-of-wedlock births.

9/28 – The U.S. Supreme Court will consider a Colorado criminal law designed to protect the privacy rights of women entering abortion clinics. The law prohibits anyone from distributing leaflets, sidewalk counseling, or protesting within 100 feet of a facility's entrance. The Supreme Court will hear arguments in January with a decision expected before the end of June.

9/30 – The House of Representatives passed the "Unborn Victims of Violence Act" by a vote of 254-172. The proposed legislation would establish legal "personhood" for a zygote (fertilized egg), blastocyst (preimplantation embryo), embryo (through week 8 of a pregnancy), or fetus. The bill attempts to establish a new federal crime against "a member of the species homo sapiens, at any stage of development." By this definition, individuals could be federally prosecuted for violating the "rights" of zygotes, blastocysts, and embryos. President Clinton has promised to veto this legislation should it reach his desk. There has been no movement yet on the Senate bill.

News from the States:

Action on so-called "partial birth abortion" bans:

9/1 – **Montana** Planned Parenthood filed suit against the state's so-called "partial birth abortion" ban. The 1999 law is similar to the 1997 ban which was ruled unconstitutional.

9/3 – In **Kansas**, anti-choice lawmakers vowed to re-introduce the so-called "partial birth abortion" bill claiming that the state is becoming known as the "abortion capital of the world."

9/13 – In **Virginia**, a federal appeals court ruled the state can enforce its so-called "partial birth abortion" ban pending an appeal of a lower-court ruling that declared the ban unconstitutional.

9/16 – In **Missouri**, the House and Senate overturned Governor Mel Carnahan's (D) veto of a bill banning so-called "partial birth abortions." Planned Parenthood has filed a lawsuit challenging the new law. A temporary stay blocking the new law was granted until March 27 when the trial is scheduled to begin.

9/17 -- In **Maine**, Pro-Choice organizations have mounted an aggressive campaign against the November referendum banning so-called "partial birth abortions."

9/24 – A federal appeals court struck down three so-called "partial birth abortion" laws in **Arkansas, Iowa and Nebraska.** The 8th U.S. Circuit Court of Appeals ruled the laws are unconstitutional because they place an undue burden on women seeking to end their pregnancies and would ban some of the most commonly used abortion procedures.

Contraceptive Coverage:

9/6 – **Puerto Rico** Governor Pedro Rossello introduced a bill which would give adolescents access to sex education and reproductive health treatment, including contraceptives, without parental consent.

9/7 – The **California** Legislature approved proposals mandating insurers who cover prescriptions to provide coverage for contraceptives.

9/27—**California** Governor Gray Davis signed into law the Women's Contraceptive Equity Act which requires insurers that cover prescription drugs to also cover contraceptives.

Parental Notification/Consent:

9/3 – **Oregon** Governor John Kitzhaber (D) vetoed legislation which would require doctors to notify parents before performing abortions on women under 18.

9/25 – A **New Jersey** Supreme Court judge temporarily blocked a law which would have required women under 18 to notify at least one parent before accessing an abortion.

Waiting Periods:

9/15 –After a 6-year court battle, the "Women's Right to Know" law took effect in **Michigan**. Passed in 1993, the law requires women to be given information about the abortion procedure, the name of the doctor, and options beside abortion. The woman must then wait 24 hours before having an abortion.

Other State News:

Judicial Action:

9/7 –Three men who allegedly kicked a nine month pregnant woman in the stomach, ending her pregnancy, were charged with first-degree battery and capital murder under **Arkansas'** new Fetal Protection Law. The statute created a new criminal offense for injuring a fetus more than 12 weeks old.

9/13 – A federal judge in **Ohio** declared a mistrial in the Department of Justice's lawsuit against Operation Rescue's six protestors accused of illegally blocking entrances to abortion clinics, a violation of the Freedom of Access to Clinic Entrances Act (FACE).

Around the World:

9/3 –In an effort to reduce abortion rates, women in **Scotland** were offered free emergency contraception kits.

9/10 –Irish Prime Minister, Bertie Ahern, published a report analyzing options for modifying **Ireland's** constitutional ban on abortions.

9/21 – Pope John Paul II ordered **Germany's** Roman Catholic Church to either stop issuing certificates that enable German women to obtain abortions or to cease abortion counseling all together. Under German law, women seeking abortions must receive certificates verifying that they have received counseling from government-approved counseling centers.

We have pulled the following information for your review:

- Current Federal Abortion Policy– Hyde Amendment
- Brief History of Abortion Congressional Action
- State Abortion Data
- Attachments:
    - A: Current Abortion Provisions in FY 1999 L/HHS Appropriations Act
    - B. Total Number of Abortions by year, United States
    - C. Total Number of Pregnancies and Abortions, by year
    - D. Abortion Rate by year, United States
    - E. Pregnancies, Number and Outcome, by year
    - F. Total Number of Abortion Providers, United States
    - G. Contraceptive Use Trends, United States

Please note a couple of items before reviewing the attachment.

Most of the data I reviewed is from the Alan Guttmacher Institute (AGI) that conducted its 12th survey (in 1997) of all known abortion providers in the United States. AGI and CDC's Abortion Surveillance data is the most reliable source of abortion information in the United States. I used AGI data because the AGI surveys seem to be the most complete and comprehensive source of information on the total number of abortions performed in the United States. CDC relies primarily on reports to state departments, many of which do not receive reporting from all providers and some which have voluntary reporting.

The AGI data suggests that abortion rates are affected by a number of factors: (1) Number of available providers, (2) Trends in [effective] contraceptive use, (3) aging of the baby boomers into their late 30's and 40's, ages where there are fewer pregnancies and abortions, and (4) increased knowledge of different methods of contraceptives.

Observations based on abortion legislative history and abortion data:

- Other factors (listed above) seem to impact the abortion rate much more than federal legislation. Abortion rate trends show that even after the Hyde Amendment was passed in 1977, the abortion rate continued to grow until the early 1980's (see Attachment D).

- The Hyde Amendment seems to have no noticeable effect on abortion rates. The main effect of federal legislation has been to eliminate federal funding for abortions.

Hyde Amendment

Congressional legislation specifically prohibits federal funds to be used for abortion services, except to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

Restrictions are imposed through the Hyde Amendment, attached to the annual Labor/Health and Human Services (L/HHS) Appropriations bill. The Hyde Amendment applies to federal spending on Medicaid, Medicare, and the Children's Health Insurance Program (CHIP). Unlike Medicaid and Medicare, Congress passed a permanent Hyde Amendment for CHIP in the Balanced Budget Act of 1997. *See Attachment A for the enacted FY 1999 Labor/Health and Human Services Appropriations bill language relating to abortion.* Other Appropriations bills contain abortion provisions, such as Commerce/ Justice/ State, the Treasury/General Government, District of Columbia, Foreign Operations, and Defense. These appropriations bills contain abortion provisions similar to L/HHS Appropriations bill's Hyde Amendment.

Medicaid. Medicaid, authorized under title XIX of the Social Security Act, provides Federal-State funding for medical assistance to low income persons, including low-income pregnant women. Section 1905 (a)(4)(C) of title XIX stipulates that available Medicaid services include "family services and supplies furnished (directly or under arrangement with others) to individuals of child-bearing age (including minors who can be considered to be sexually active) who are eligible under the State plan and who desire such services and supplies."

Medicare. Medicare, authorized under title XVIII of the Social Security Act, provides Federal funding for health services primarily for the elderly and other groups, such as certain disabled persons.

CHIP. CHIP, authorized under title XXI of the Social Security Act, provides child health assistance to uninsured, low-income children. Abortion services are permitted under CHIP only " if necessary to save the life of the mother of if the pregnancy is the result of rape or incest" (section 2105 (c) (1)). Limitations regarding abortion services are discussed in Section 2105 (c)(7)(A), (B), and (C) in addition to Section 2110(a)(16).

IHS. IHS is authorized to expend funds consistent with the current HHS appropriations language. Section 806 of the Indian Health Care Improvement Act makes the restrictions on the use of HHS appropriations for the performance of abortions applicable to the IHS. Section 806 states that "Any limitation on the use of funds contained in an Act providing appropriations for the Department of Health and Human Services for a period with respect to the performance of abortions shall apply for that period with respect to the performance of abortions using funds contained in an Act providing appropriations for the Indian Health 'Service."

Brief History of Abortion Legislative Action

1970

When *Title X (Family Planning Clinics)* was passed in 1970, it included a permanent ban on the use of Title X federal funds to perform abortions.

1977

The *Hyde Amendment* was enacted in FY 1977 Labor/Health and Human Services (L/HHS) Appropriations Act which restricted the use of federal Medicaid funds for abortion services. The restriction also applied to Medicaid eligible women in the District of Columbia.

1979

The *DoD Appropriations Act* included abortion funding restrictions.

In the *Foreign Operations Appropriations Act*, the appropriations language prohibited the use of funds to provide abortion services for Peace Corps volunteers and trainees, even in cases where the life of the mother would be endangered if the pregnancy was carried to full term.

1981

In the L/HHS Appropriations Bill, the *Hyde Amendment* was loosened. Federal Medicaid funds were prohibited from being used to provide abortion services except when the life of the mother was endangered.

1983

Legislation prohibited the Federal Employee Health Benefits Program (FEHBP is funded under the *Treasury/General Government Appropriations Act*) from covering abortion services except in cases where the woman's life is endangered.

1985

In the *DoD Appropriations Act*, the DoD was prohibited from providing coverage except in cases where the life of the mother is endangered.

1987

The *State, Commerce, Justice Appropriations Act* prohibited the use of federal funds to provide inmates at federal correctional institutions with abortion services except where the life of the mother is endangered or the pregnancy was a result of rape or incest.

1988

In the *Interior Appropriations Act*, IHS facilities are prohibited from providing abortion services unless the life of the mother was endangered.

In the *District of Columbia Appropriations Act*, the District of Columbia was prohibited from

using local and federal funds to provide access to abortion services except when the life of the woman was endangered.

DoD issued an administrative order prohibiting women from obtaining abortion services with their own private funds at military facilities abroad.

1993

In the *L/HHS Appropriations Act,* the *Hyde Amendment* was further relaxed, compared to 1981 Hyde language, to allow federal funding for abortions in situations where the pregnancy resulted from rape or incest. IHS restrictions were also relaxed in the *Interior Appropriations Act.*

In the *District of Columbia Appropriations Act*, Congress permitted the District of Columbia to use locally raised funds to pay for abortion services.

The *FEHBP* 1983 restriction was lifted in the *Treasure/General Government Appropriations Act*

The abortion restriction relating to the *Federal Bureau of Prisons* was lifted in the 103rd Congress in the *Commerce/Justice/State Appropriations Act.*

The Administration lifted the 1993 *DoD* prohibition by executive order in January 22.

1995

DoD Appropriations Act reversed President Clinton's 1993 executive order and prohibited women from obtaining privately funded abortion services at overseas military facilities except in cases of rape or incest.
Congress reimposed the District of Columbia restriction on the use of locally raised revenue for abortion services in the *District of Columbia Appropriations Act.*

Congress reimposed abortion restrictions to the *FEHBP* in the Treasury/General Government Appropriations Act, which prohibit FEHBP from covering abortions services except in cases of life endangerment, rape, or incest.

Congress reimposed the abortion restriction for federal funding going to the Federal Bureau of Prisons in the *Commerce/Justice/State Appropriations Act.*

1997

In the *L/HHS Appropriations Act,* the *Hyde Amendment* clarified that restrictions included Medicaid recipients in Medicaid managed care plans; and Congress passed a permanent *Hyde Amendment* in the Budget Reconciliation Act of 1997 which applied to CHIP.

1998

In the *L/HHS Appropriations Act*, Congress further expanded the Hyde language requiring a physician to certify that certain conditions have been met (i.e., the life of the mother is at risk).

1999

Congress expanded the *Hyde Amendment* language, in the *L/HHS Appropriations Act*, to prohibit the use of Medicare trust funds to provide abortion services.

State Data

Table 1. Top Five States with Largest Percentage Increase in Abortion Rate*, 1992-1996

State	% change in Abortion Rate
New Jersey	16
District of Columbia	12
Louisiana	10
Florida	7
Massachusetts & Illinois	3

* Abortions per 1,000 women aged 15-44.

Table 2. Top Five States with Largest Percentage Decrease in Abortion Rate, 1992-1996

State	% change in Abortion Rate
Mississippi	-42
Hawaii	-41
Wyoming	-37
Maine	-34
Deleware	-32

Table 3. Top Five States with the Largest Number Change in the Number of Abortion Providers#

State	Number of Providers 1992	Number change, 1992-1996
California	554	-62
North Carolina	86	-27
New York	289	-23
Pennsylvania	81	-20
Florida	133	-19

Providers refer to hospitals, abortion clinics, other clinics, and physicians' offices

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Department of Health and Human Services. "Memo: Current Restrictions on Use of Indian Health Service Funds for Abortions." SGM 96-1, August 12, 1996.

Attachment A

FY 1999 Enacted Labor/Health and Human Services Appropriations Act- Abortion Provisions

Section 216. None of the funds appropriated by this Act (including funds appropriated to any trust fund) may be used to carry out the Medicare+Choice program if the Secretary denies participation in such program to an otherwise eligible entity (including a Provider Sponsored Organization) because the entity informs the Secretary that it will not provide, pay for, provide coverage of, or provide referrals for abortions: Provided, That the Secretary shall make appropriate prospective adjustments to the capitation payments to such an entity (based on an actuarially sound estimate of the expected costs of providing the service to such entity's enrollees): Provided further, That nothing in this section shall be construed to change the Medicare program's coverage for such services and a Medicare+Choice organization described in this section shall be responsible for informing enrollees where to obtain information about all Medicare covered services.

Section 509. (a) None of the funds appropriated under this Act shall be expended for any abortion. (b) None of the funds appropriated under this Act, and none of the funds in any trust fund to which funds are appropriated under this Act, shall be expended for health benefits coverage that includes coverage of abortion. (c) The term "health benefits coverage" means the package of services covered by a managed care provider or organization pursuant to a contract or other arrangement.

Section 510. (a) The limitations established in the preceding section shall not apply to an abortion-(1) if the pregnancy is the result of an act of rape or incest; or (2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed. (b) Nothing in the preceding section shall be construed as prohibiting the expenditure by a State, locality, entity, or private person of State, local, or private funds (other than a State's or locality's contribution of Medicaid matching funds). (c) Nothing in the preceding section shall be construed as restricting the ability of any managed care provider from offering abortion coverage or the ability of a State or locality to contract separately with such a provider for such coverage with State funds (other than a State's or locality's contribution of Medicaid matching funds).

"Side-by-Side" Comparison for Abortion Provisions

	FY 98 Enacted	FY 99 President's Budget	FY 99 Enacted	Final Language for FY 2000 PB
DC	Sec. 132. No funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.	Repeat the FY 1998 Budget, i.e., the Administration proposes to delete this provision and add the footnote that the Administration will work with Congress on this issue.	Sec. 131. Same as FY 1998 enacted.	Repeat FY 1999 President's Budget, i.e., delete the provision and add the footnote: "The Administration proposes to delete this provision and will work with Congress to address this issue."
C/J/S	Sec. 103. Repeated FY 1997 Enacted language. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape: Provided, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.	Repeat the FY 1998 Budget i.e., the Administration proposes to delete this provision and add a footnote that the Administration will work with Congress on this issue.	Sec. 103. Same as FY 1998 enacted.	Repeat FY 1999 President's Budget, i.e., delete the provision and add the footnote: "The Administration proposes to delete this provision and will work with Congress to address this issue."
C/J/S	Sec. 104. Repeated FY 1997 Enacted language. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of any abortion.	Repeat FY 1998 Enacted Language.	Sec. 104. Same as FY 1998 enacted.	Repeat FY 1999 Enacted Language.
C/J/S	Sec. 105. Repeated FY 1997 Enacted language. Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: Provided, That nothing in this section in any way diminishes the effect of section 104 intended to address the philosophical beliefs of individuals employees of the Bureau of Prisons.	Repeat FY 1998 Enacted Language.	Sec. 105. Same as FY 1998 enacted.	Repeat FY 1999 Enacted Language.
L/HHS/Ed **Hyde Amendment**	Sec. 509. (a) None of the funds appropriated under this Act shall be expended for any abortion. (b) None of the funds appropriated under this Act shall be expended for health benefits coverage that includes coverage of abortion. (c) The term "health benefits coverage" means the package of services covered by a managed care provider or organization pursuant to a contract or other arrangement.	Repeat FY 1998 Budget, i.e., propose deletion and add footnote: "The Administration proposes to delete this footnote and will work with Congress to address this issue."	Sec. 508. Same as FY 1998 enacted except it added: ". . . and none of the funds in any trust fund to which funds are appropriated under this Act, . . ."	Repeat FY 1999 President's Budget, i.e., delete the provision and add the footnote: "The Administration proposes to delete this provision and will work with Congress to address this issue."
L/HHS/Ed **Hyde Amend-ment**	Sec. 510. (a) The limitations established in the preceding section shall not apply to an abortion-(1) if the pregnancy is the result of an act of rape or incest; or (2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed. (b) Nothing in the preceding section shall be construed as prohibiting the expenditure by a State, locality, entity, or private person of State, local, or private funds (other than a State's or locality's contribution of Medicaid matching funds). (c) Nothing in the preceding section shall be construed as restricting the ability of any managed care provider from offering abortion coverage or the ability of a State or locality to contract separately with such a provider for such coverage with State funds (other than a State's or locality's contribution of Medicaid matching funds).	Delete provision and add footnote: "The Administration proposes to delete this provision and will work with Congress to address this issue."	Sec. 509. Same as FY 1998 enacted.	Repeat FY 1999 President's Budget, i.e., delete the provision and add the footnote: "The Administration proposes to delete this provision and will work with Congress to address this issue."

L/HHS/Ed **Medicare+ Choice**			Sec. 216. None of the funds appropriated by this Act (including funds appropriated to any trust fund) may be used to carry out the Medicare+Choice program if the Secretary denies participation in such program to an otherwise eligible entity (including a Provider Sponsored Organization) because the entity informs the Secretary that it will not provide, pay for, provide coverage of, or provide referrals for abortions: Provided, That the Secretary shall make appropriate prospective adjustments to the capitation payment to such an entity (based on an actuarially sound estimate of the expected costs of providing the service to such entity's enrollees): Provided further, That nothing in this section shall be construed to change the Medicare program's coverage for such services and a Medicare+Choice organization described in this section shall be responsible for informing enrollees where to obtain information about all Medicare covered services.	Repeat FY 1999 enacted language.
Foreign Ops	Sec. 518. Same as FY 1997 Enacted language. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations: Provided, That none of the funds made available under this Act may be used to lobby for or against abortion.	Repeat FY 1998 Enacted language.	Sec. 518. Same as FY 1998 enacted.	Repeat FY 1999 enacted.
Foreign Ops	Sec. 592. (a) Not to exceed $385,000,000 of the funds appropriated in title II of this Act may be available for population planning activities or other population assistance. (b) Such funds may be apportioned only on a monthly basis, and such monthly apportionments may not exceed 8.34 percent of the total available for such activities.	The Administration proposed to delete this provision.	Deleted.	No provision.

Foreign Ops	Sec. 543. (a) Assistance Through Nongovernmental Organizations. -- Restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance in support of programs of nongovernmental organizations from funds appropriated by this Act to carry out the provisions of chapters 1, 10,and 11 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, and from funds appropriated under the heading ``Assistance for Eastern Europe and the Baltic States'': Provided, That the President shall take into consideration, in any case in which a restriction on assistance would be applicable but for this subsection, whether assistance in support of programs of nongovernmental organizations is in the national interest of the United States: Provided further, That before using the authority of this subsection to furnish assistance in support of programs of nongovernmental organizations, the President shall notify the Committees on Appropriations under the regular notification procedures of those committees, including a description of the program to be assisted, the assistance to be provided, and the reasons for furnishing such assistance: Provided further, That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion or involuntary sterilizations contained in this or any other Act. (b) Public Law 480 . . .	Same as FY 1998 enacted.	Same as FY 1998 enacted	Repeat FY 1999 enacted.

Foreign Ops	"For necessary expenses to carry out ...Provided further, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: Provided further, That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services; Provided further, That in awarding grants for natural family planning under section `04 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and additionally, all such applicants shall comply with the requirements of the previous proviso: Provided further, That for purposes of this or any other Act authorizing or appropriations funds for foreign operations, export financing, and related programs, the term "motivate", as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options: Provided further, That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961; Provided further ..."	Repeat FY 1998 enacted language.	*FY 1999 Enacted Language expanded family planning provision and the new language is bolded below.* For necessary expenses to carry out. . . Provided further, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: Provided further, That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services, **and that any such voluntary family planning project shall meet the following requirements: (1) service providers or referral agents in the project shall not implement or be subject to quotas, or other numerical targets, of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning (this provision shall not be construed to include the use of quantitative estimates or indicators for budgeting and planning purposes), (2) the project shall not include payment of incentives, bribes, gratuities, or financial reward to (A) an individual in exchange for becoming a family planning acceptor, or (B) program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning services,**	Repeat FY 1999 enacted abortion and family planning provisions.

			(3) the project shall not deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any individual's decision not to accept family planning services, (4) the project shall provide family planning acceptors comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method, (5) the project shall ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits; and, not less than 60 days after the date on which the Administrator of the United States Agency for International Development determines that there has been a violation of the requirements contained in paragraph (1), (2), (3), or (5) of this proviso, or a pattern or practice of violations of the requirements contained in paragraph (4) of this proviso, the Administrator shall submit to the Committee on International Relations and the Committee on Appropriations of the House of	
Foreign Ops Cont'd			**Representatives and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate, a report containing a description of such violation and the corrective action taken by the Agency:** Provided further, That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: Provided further, That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term ``motivate", as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options: Provided further, That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961: Provided further, . . .	

Foreign Ops **Peace Corps**	For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $222,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States, Provided, That none of the funds appropriated under this heading shall be used to pay for abortions: Provided further, That funds appropriated under this heading shall remain available until September 30, 1999	Delete the sentence, "Provided, That none of the funds appropriated under this heading shall be used to pay for abortions" and add footnote: "The Administration proposes to delete this provision and will work with Congress to address this issue."	Same as FY 1998 enacted.	Repeat FY 1999 President's Budget, i.e., delete the provision and add the footnote: "The Administration proposes to delete this provision and will work with Congress to address this issue."
Treasury/ General Govern-me nt **FEHB Prohibition**	Sec. 513. Same as FY 1997 Enacted language. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortion.	The Administration proposed deleting this provision.	Sec. 509. Same as FY 1998 enacted.	Repeat FY 1999 President's Budget, i.e., delete the provision. In addition add the footnote, consistent with other abortion provisions that reads: " The Administration proposes to delete this provision and will work with Congress to address this issue."
Treasury/ General Govern-me nt **FEHB Prohibition**	Sec. 514. Same as FY 1997 Enacted language. The provision of section 518 shall not apply where the life of the mother would be endangered if the fetus were carried to term, or the pregnancy is the result of an act of rape or incest.	The Administration proposed deleting this provision.	Sec. 510. Same as FY 1998 enacted.	Repeat FY 1999 President's Budget, i.e., delete the provision. In addition add the footnote, consistent with other abortion provisions that reads: " The Administration proposes to delete this provision and will work with Congress to address this issue."
Treasury/G eneral Govern-me nt			Sec. 656. (a) None of the funds appropriated by this Act may be used to enter into or renew a contract which includes a provision providing prescription drug coverage, except where the contract also includes a provision for contraceptive coverage. (b) Nothing in this section shall apply to a contract with: (1) any of the following religious plans: (a) SelectCare (b) Personal CaresHMO (c) Care Choices (d) OSF Health Plans, Inc. (e) Yellowstone Community Health Plan (2) any existing or future plan, if the plan objects to such coverage on the basis of religious beliefs. (c) In implementing this section, any plan that enters into or renews a contract under this section may not subject any individual to discrimination on the basis that the individual refuses to prescribe contraceptives because such activities would be contrary to the individual's religious beliefs or moral convictions. (d) Nothing in this section shall be construed to require coverage of abortion or abortion-related services.	Repeat FY 1999 enacted language.

ISSUE REPORT:

ABORTION PROCEDURES BANS

In its landmark 1973 *Roe v. Wade* decision, the U.S. Supreme Court recognized abortion as a constitutional right of all women. According to a 1998 *New York Times/CBS News* Poll, 75 percent of those polled oppose constitutional amendments outlawing abortion. However, a loud minority works every day to deny women reproductive freedom. Targeting specific abortion procedures is part of an overriding strategy to criminalize all abortions.

Radical Right Campaign of Misinformation:
The term "partial-birth" abortion is not a medical term. Religious and political extremists use this language to mislead the public and ban various procedures at once.

Key Points

Roe v. Wade *recognized that the right to privacy extends to the decision of a woman, in consultation with her physician, to terminate her pregnancy. The Supreme Court also ruled that the state may not restrict third-trimester abortions if the pregnancy threatens a woman's life or health.*

- While anti-abortion forces claim to be targeting a specific late-term procedure, their proposed laws purposely contain broad language, no clear definition of the procedure and no reference to trimester. These laws, with their vague wording and threats of prison, are designed to scare doctors away from performing any abortion.
- Even if narrowly interpreted, these bans would prohibit late-term procedures which a woman's physician may recommend as the safest method of termination and vital to the protection of her physical, reproductive and/or emotional health.
- Late-term abortions are not undertaken lightly. Most involve wanted pregnancies that go tragically wrong when the woman's life or health is endangered or the fetus develops abnormalities incompatible with life.
- Procedures bans place unqualified legislators in the position of making medical decisions and criminalizing abortion.

NOW's Efforts

Six years before Roe v. Wade, *NOW members passed a resolution affirming the right of every woman to control her reproductive life and calling for the repeal of all laws criminalizing abortion. NOW continues to take action to ensure that women do not lose this right.*

- During the 1998 election season, NOW sent national organizers to help Washington state and Colorado chapters rally support to defeat initiatives banning abortion procedures. With NOW working to get out the word and the vote, residents in both states rejected the bans on their November ballots.
- As Congress voted on a federal abortion procedures ban, NOW activists organized a protest to demand that politicians stop practicing medicine without a license. After NOW and allies lobbied the White House in 1997, President Clinton vetoed the ban. NOW again mobilized to help prevent a veto override in the Senate in 1998.
- NOW activists are fighting abortion procedures bans in states across the country. When Wisconsin legislators passed a dangerous ban in May 1998, demonstrations were held nationwide.

Under Attack

While Congress failed to override President Clinton's veto of the abortion procedures ban, state legislatures are at work on their own bans, as well as various other measures limiting access to and funding for abortion and family planning services.

- Abortion procedures bans are in full or partial effect in 11 states. Seventeen other states have passed procedures bans which are currently blocked by the courts. Several more states are likely to pass bans this session. Voters in two states, Colorado and Washington, defeated procedures bans on their ballots in the November 1998 elections.
- Anti-abortion forces openly admit that abortion procedure bans are just the first step in a strategy to nullify *Roe v. Wade*. Legislators are using these bans in an attempt to eliminate access to any abortion procedure, in all three trimesters.
- The broadly worded Wisconsin ban (Act 219), signed into law by Gov. Tommy Thompson, temporarily halted all abortion services in May 1998. When U.S. District Judge John C. Shabazz ruled against a restraining order on the ban, he stated that fetuses would be "unnecessarily killed" if the law was not enforced. The Wisconsin law, like most bans, provides no exception for the health of the woman.

Take Action NOW

- Contact your member of Congress to express opposition to **any** criminalization of abortion. The Congressional switch-board number is 202-224-3121 or 225-3121, or you can find your member's e-mail address at: http://www.senate.gov or http://www.house.gov. If your representative votes against abortion procedure bans, make sure to communicate your apreciation.
- Find out if an abortion procedures ban has been proposed in your state. Call your state representatives to ask that they fight these bans. Remind legislators, the media and your friends that "partial birth" is not a medical term.
- Join with other women's groups, health care providers, social service and religious groups in your area to form a reproductive rights network.
- Subscribe to NOW's Action Alert e-mail list and receive updates on reproductive rights and other issues. Connect to http://www.now.org/actions/ and follow the instructions.
- Become a NOW member. Regular dues are $35 with a sliding scale down to $10. Join your local chapter and work to defeat anti-abortion legislation. You can join through the mail, by phone or on the web. See information below.

Register! Vote! Elect!
We all share the power to make our voices heard at the polls. Help register voters. Join get-out-the-vote efforts. Vote locally and nationally.

More Information

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The Abortion Rights Activist page:
http://www.cais.com/agm/

NOW is a grassroots political action organization. This issue report is designed for activist use (January 1999).

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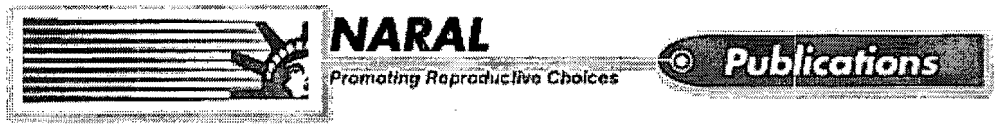

NARAL FACTSHEETS

Bans on Abortion Procedures and the Law

As of July 9, 1998, the total number of states that have enacted legislation banning so-called "partial-birth" abortion or other abortion procedures is 28. In 18 states, courts have partially or fully enjoined the laws (AK, AZ, AR, FL, GA,[4] ID, IL, IA, KY, LA, MI, MT, NE,[5] NJ, OH, RI, WI, WV). In seven of these 18 states, courts have permanently enjoined the laws (AK, AZ, IL, MI, MT, NE, OH). Court challenges in many of these states demonstrate the unconstitutionality of these bans.

COURT CHALLENGES

In issuing these orders, courts have concluded that these bans are constitutionally deficient for three main reasons: (1) the bans constitute an undue burden on women seeking pre-viability abortions; (2) the bans fail to provide an adequate exception when necessary to protect a woman's health; and (3) the bans are unconstitutionally vague.

Undue Burden: In *Planned Parenthood of Southeastern Pennsylvania v. Casey*, the U.S. Supreme Court held that, prior to viability, restrictions on abortion must not constitute an undue burden on a woman's right to choose. An undue burden is one that has "the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus."[9] Courts have held that bans on "partial-birth" abortion and other abortion procedures impose an "undue burden" on women seeking pre-viability abortions.

- The Sixth Circuit Court of Appeals held that Ohio's "ban on the D&X procedure is unconstitutional because the definition of the procedure encompasses the more commonly employed D&E procedure, and thereby places a substantial obstacle in the path of women seeking pre-viability abortions."[10]

- In Michigan, the court held "that the Michigan 'partial birth abortion' statute is facially overbroad because in a substantial percentage of cases in which the statute is implicated, it will operate as a substantial obstacle to a woman's choice to undergo an abortion. Indeed, because of the sweeping breadth of the statute, it would operate to eliminate one of the safest post-first trimester abortion procedures, a procedure which is currently used in more than 85% of the post-first trimester abortions performed in Michigan. . . . To leave women with only far riskier alternatives to the D&E clearly imposes an undue burden on a woman's right to seek a pre-viability abortion."[11]

- In Illinois, the court held that the "partial-birth" abortion ban constitutes an undue burden on a woman's constitutional right to choose abortion because it has the potential effect of banning the most common and safest abortion

procedures. The court noted that because the bill could apply to a variety of safe and common abortion procedures, physicians will probably stop performing such procedures.[12] In addition, the court held that because the "partial-birth" abortion ban "will significantly increase the cost of abortion procedures" by causing physicians to forgo the most common abortion procedures, it places a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus.[13]

Unconstitutional Threat to Women's Health: In *Thornburgh v. American College of Obstetricians and Gynecologists*[14] and *Colautti v. Franklin*,[15] established that it is unconstitutional to force a physician to make a "trade-off" between the woman's health and the state's interest in fetal life. The woman's health must remain the physician's primary concern, and the physician must be given the discretion he or she needs to choose the most appropriate abortion method. In addition, the Supreme Court held in *Roe* and reaffirmed in *Casey* that even after viability, a state may not ban an abortion necessary to preserve a woman's life or health.[16] Bans on so-called "partial-birth" abortion unconstitutionally chill a physician's exercise of discretion in determining the best course of treatment and thereby imperil women's lives and health. Courts have held that so-called "partial-birth" abortion bans are unconstitutional because of the failure to provide an exception to the ban when necessary to protect a woman's health.

- In Arizona, for example, the court stated: "*Casey* is clear that a state may not interfere in a woman's choice to undergo an abortion procedure if it is necessary for her *health*. *Casey* even provides that *after* viability a state may not prevent abortion where it is necessary for the preservation of the health of the mother. Thus, the fact that the Act does not provide an exception where the proscribed conduct is in the best interest of the health of a woman is an additional reason to find that the Act is unconstitutional."[17]

- In Illinois, the court stated: "Even if the court found that there are alternative procedures available to women seeking abortions of a nonviable fetus, the statute would nevertheless be invalid because it does not provide an exception to the ban when the woman's health, whether it be mental or physical health, is endangered, or when the alternative procedure would compromise her health. . . . Without a health exception, the statute places a substantial obstacle in the path of a woman seeking an abortion before the fetus attains viability."[18] Additionally, the court held that the statute's lack of a health exception "indicates that the Illinois legislature intended to 'trade-off' the woman's health for fetal survival. That is, the statute only permits abortion procedures that are extremely risky to the woman and prohibits the safer alternatives, unless her life is in danger. The purpose and effect of such a statute is to force women to carry their fetuses to full-term. . . . Because [the statute] requires women to remain pregnant even in the face of serious health concerns, it operates as a substantial obstacle to women seeking abortions. As such, it is unconstitutional."[19]

- In issuing a temporary restraining order prohibiting enforcement of the Arkansas "partial-birth" abortion ban, the court noted: "Complications can arise unexpectedly during an abortion or delivery and the physician must respond appropriately and quickly. . . . While a certain procedure in response to an emergency might 'suffice' to save the life of the woman, it may carry much greater risk than another procedure and thus be medically inappropriate."[20]

Vagueness: Constitutional law prohibits the government from punishing individuals for violating a statute when the statute does not give them "a reasonable opportunity to know what [conduct] is prohibited, so that [they] may act accordingly."[21] Courts have ruled that so-called "partial-birth" abortion bans are unconstitutionally vague because the term "partial-birth abortion" is not a medical term, is ambiguous, may be subject to multiple interpretations and fails to provide physicians performing abortions with fair warning of what conduct is prohibited.

- In Michigan, the court concluded "that the language of the definition of 'partial birth abortion' in the Michigan statute is hopelessly ambiguous and not susceptible to a reasonable understanding of its meaning. Physicians looking to its language for direction as to what procedures are proscribed by the law simply cannot know with any degree of confidence what conduct may give rise to criminal prosecution and license revocation."[22]

- In Arizona, the court held that "the language of the Act is sufficiently ambiguous as to include many interpretations other than that advanced by the Defendants. . . . [T]he term 'partial birth abortion' is defined in such a way that [ ] 'persons of common intelligence would necessarily guess at meaning and differ as to application.'"[23]

July 1998

NOTES:

1. This law does not go into effect until 60 days after the legislature closes in May.
2. This law does not go into effect until July 1, 1998.
3. The Ohio statute prohibits "dilation and extraction" abortion.
4. The Utah statute prohibits "partial-birth" abortion, "dilation and extraction" abortion and saline abortion after viability.
5. This law does not go into effect until July 1, 1998.
6. This law does not go into effect until 90 days after March 14, 1998.
7. In Georgia, a court has issued an interim order permitting enforcement of the law as it applies to abortion after viability. *Midtown Hospital v. Miller*, No. 1:97-CV-1786-JOF (N.D. Ga. June 27, 1997).
8. In Nebraska, a court has issued a preliminary injunction prohibiting enforcement of the law as applied to the plaintiff "regarding his performance of D&X abortions on nonviable fetuses." *Carhart v. Stenberg*, 972 F. Supp. 507, 531 (D. Neb. 1997).
9. *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 877 (1992).
10. *Women's Medical Professional Corp. v. Voinovich*, Nos. 96-3157/3159, slip op. at 30 (6th Cir. Nov. 18, 1997).
11. *Evans v. Kelley*, No. 97-CV-71246-DT, slip op. at 84-85 (E.D. Mich. July 31, 1997).
12. *Hope Clinic v. Ryan*, No. 97C8702, slip op. at 27-28 (N.D. Ill. Feb. 12, 1998).
13. *Hope Clinic*, No. 97C8702, slip op. at 30.
14. *Thornburgh v. American College of Obstetricians and Gynecologists*, 476 U.S. 747, 769 (1986).
15. *Colautti v. Franklin*, 439 U.S. 379, 400 (1979).
16. *Roe v. Wade*, 410 U.S. 113, 163-65 (1973); Casey, 505 U.S. at 879.
17. *Planned Parenthood of Southern Arizona v. Woods*, No. CIV 97-385-TUC-RMB, slip op. at 19 (D. Ariz. Oct. 24, 1997) (citations omitted).
18. *Hope Clinic*, No. 97C8702, slip op. at 36.
19. *Hope Clinic*, No. 97C8702, slip op. at 38.
20. *Little Rock Family Planning Services v. Jegley*, No. LR-C-97-581, slip op. at 2-3 (E.D. Ark. July 31, 1997).
21. *Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972).
22. *Evans*, No. 97-CV-71246-DT, slip op. at 66-67.
23. *Woods*, No. CIV. 97-385-TUC-RMB, slip op. at 21-22 (citing *Smith v. Goguen*, 415 U.S. 566, 572 (1974)).

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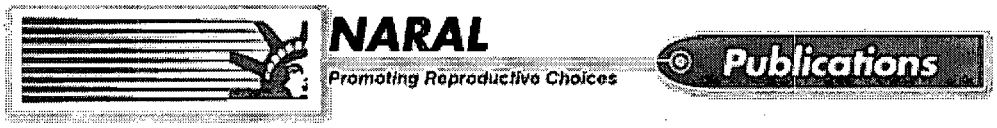

NARAL FACTSHEETS

BANS ON SO-CALLED "PARTIAL-BIRTH" ABORTION AND OTHER ABORTION PROCEDURES

More than half the states have banned so-called "partial-birth" abortion, but in 20 of these states, courts or attorneys general have blocked full enforcement.

State	Enforced	Limited Enforcement	Enjoined/Not Enforced
Alabama		X[1]	
Alaska			X
Arizona			X
Arkansas			X
Florida			X
Georgia		X[2]	
Idaho			X
Illinois			X
Indiana	X		
Iowa			X
Kansas[3]	X		
Kentucky			X
Louisiana			X
Michigan			X
Mississippi	X		
Montana			X
Nebraska			X[4]
New Jersey			X
Ohio[5]			X
Oklahoma	X		
Rhode Island			X
South Carolina	X		
South Dakota	X		
Tennessee	X		
Utah[6]	X		
Virginia		X[7]	
West Virginia			X
Wisconsin			X
Total = 28	**8**	**3**	**17**

December 1998

Notes:

1. .The Alabama Attorney General directed the state's district attorneys to enforce the statute only after viability.
2. .A court has approved a consent order that limits enforcement of this law to post-viability intact dilation and extraction procedures except when necessary to preserve the woman's life or health.
3. .This statute prohibits "partial-birth" abortion after viability except when necessary to preserve a woman's life or if the pregnancy will result in "substantial and irreversible impairment of a major physical or mental function of the woman."
4. .A court has issued a permanent injunction prohibiting enforcement of the law as applied to the plaintiff and his patients and others similarly situated.
5. .This statute prohibits dilation and extraction abortion unless the defendant proves that all other available abortion procedures pose a greater risk to the woman's health.
6. .This statute prohibits so-called "partial-birth" abortion, dilation and extraction, and saline abortion after viability unless all other available abortion procedures would pose a risk to the woman's life or health.
7. .A court has interpreted this law to apply only to the intact dilation and extraction abortion procedure.

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NARAL FACTSHEETS

MEMORANDUM

To: Interested Parties
From: NARAL Legal Department
Re: State Legislation to Ban So-Called "Partial-Birth" Abortion
Date: January 4, 1999

- Twenty-eight states have enacted legislation banning so-called "partial-birth" abortion or other abortion procedures (AL, AK, AZ, AR, FL, GA, ID, IL, IN, IA, KS,[1] KY, LA, MI, MS, MT, NE, NJ, OH,[2] OK, RI, SC, SD, TN, UT,[3] VA, WV, WI).

- Court challenges regarding these laws have been initiated thus far in 20 states (AL, AK, AZ, AR, FL, GA, ID, IL, IA, KY, LA, MI, MT, NE, NJ, OH, RI, VA, WV, WI).

    - In 18 states, courts have partially or fully enjoined the laws (AK, AZ, AR, FL, GA,[4] ID, IL, IA, KY, LA, MI, MT, NE,[5] NJ, OH, RI, WI, WV). In 13 of these 18 states, courts have permanently enjoined the laws (AK, AZ, AR, FL, GA,[6] IL, IA, KY, MI, MT, NE, NJ, OH)

    - In Alabama, the court has not ruled on the merits, but the Alabama Attorney General has directed the state's district attorneys to enforce the statute only after viability.

    - n Virginia, the U.S Court of Appeals for the Fourth Circuit interpreted this law to apply only to intact dilation and extraction abortion procedures and denied a motion to vacate the stay of a preliminary injunction issued by the district court. As a result, the law is in effect.[7]

- In eight states, the laws have not been challenged and are in effect (IN, KS, MS, OK, SC, SD, TN, UT).

- Three U.S. Circuit Courts of Appeal have ruled on the issue. The U.S. Court of Appeals for the Sixth Circuit held Ohio's ban on dilation and extraction unconstitutional and the U.S. Supreme Court denied *certiorari* earlier this year. The U.S. Court of Appeals for the Seventh Circuit reversed a denial of a preliminary injunction of Wisconsin's law in November. The U.S. Court of Appeals for the Fourth Circuit denied a motion to vacate the stay of a preliminary injunction issued by a district court in Virginia. If a split in the U.S. Circuit Courts of Appeal develops, it is more likely that the U.S. Supreme Court will take a case concerning so-called "partial-birth" abortion.

January 4, 1999

Notes:

1. . The Kansas statute prohibits "partial-birth" abortion after viability except when necessary to preserve a woman's life or if the pregnancy will result in "substantial and irreversible impairment of a major physical or mental function of the woman."
2. . The Ohio statute prohibits dilation and extraction abortion.
3. . The Utah statute prohibits "partial-birth" abortion, dilation and extraction abortion, and saline abortion after viability.
4. . In Georgia, the district court approved the parties' consent order which limits enforcement of the law to post-viability intact dilation and extraction abortion procedures except when necessary to preserve the woman's life or health. *Midtown Hospital v. Miller*, No. 1:97-CV-1786-JOF (N.D. Ga. Sept. 2, 1998).
5. . In Nebraska, a court has issued a permanent injunction prohibiting enforcement of the law as applied to the plaintiff and his patients and others similarly situated. *Carhart v. Stenberg*,11 F. Supp. 2d 1099 (D. Neb. 1998).
6. . In Georgia, the district court approved the parties' consent order which limits enforcement of the law to post-viability intact dilation and extraction abortion procedures except when necessary to preserve the woman's life or health. *Midtown Hospital v. Miller*, No. 1:97-CV-1786-JOF (N.D. Ga. Sept. 2, 1998).
7. . *Richmond Medical Center For Women v. Gilmore*, No. 98-1930 (4th Cir. July 29, 1998).

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NARAL FACTSHEETS

CONSTITUTIONAL ANALYSIS OF LEGISLATION BANNING ABORTION PROCEDURES

Opponents of choice have been using inflammatory rhetoric about "infanticide" and "partial-birth" abortion in a nationwide strategy to further their goal of eroding women's reproductive options. However, in court challenges across the country, judges -- including judges appointed by Presidents Reagan and Bush -- have found bans on abortion procedures unconstitutional. As discussed below, these courts have concluded that the definition of what methods of abortion would be banned is vague and overbroad -- it would ban a variety of safe and common abortion procedures, not just one procedure. Moreover, by banning a variety of safe abortion procedures, the bans impose an undue burden on women seeking access to abortions by forcing them to rely upon less safe medical options. And finally, courts have found that the bans are unconstitutional because they do not allow women to obtain a banned procedure when it would preserve their health.

Instead of making abortion more difficult and dangerous for women, lawmakers should promote policies that reduce the need for abortion. Almost 50 percent of all pregnancies in this country are unintended, including over 30 percent within marriage. And over half of all unintended pregnancies end in abortion. Improved access to contraception -- including increases in Title X funding, insurance coverage of contraception and improved contraceptive research -- would address the root causes of unintended pregnancy and would reduce the need for abortion.

Bans on Abortion Procedures, Such As So-Called "Partial-Birth" Abortion, Violate Roe v. Wade

- The U.S. Supreme Court recognized a woman's constitutional right to choose whether or not to have an abortion in *Roe v. Wade*.[1] *Roe* also established that this right is limited after fetal viability, at which point the state may ban abortion as long as exceptions are provided for cases in which the woman's life or health are at risk. By violating these holdings, explicitly reaffirmed by the Court in the 1992 *Planned Parenthood v. Casey* decision,[2] the so-called "partial-birth" abortion ban presents a direct constitutional challenge to *Roe*.
    - The legislation, as typically introduced, applies throughout pregnancy in disregard of the crucial constitutional distinction between pre- and post-viability abortion. In addition, the bill's failure to provide an exception for cases in which the banned procedure is necessary to preserve a woman's health is a grave constitutional flaw.
        - Nearly 90 percent of all abortions occur in the first trimester of pregnancy.[3] Only approximately one percent of abortions take place at 21 weeks or later.[4] Although states may ban virtually all abortion after viability, a point that varies with each pregnancy but is generally considered to take place no earlier than 23-24 weeks,[5] the U.S. Supreme

Court held as recently as 1992 that "[r]egardless of whether exceptions are made for particular circumstances, [the government] may not prohibit any woman from making the ultimate decision to terminate her pregnancy before viability."[6] By prohibiting the use of certain procedures, both before and after viability, the ban violates the constitutionally protected status of second-trimester abortion and curtails a physician's ability to use the abortion method most appropriate in light of each woman's individual circumstances.

Bans On Abortion Procedures Unconstitutionally Jeopardize Women's Health

- As stated above, the Supreme Court held in *Roe,* and reaffirmed in *Casey,* that after viability, a state may not ban an abortion necessary to preserve a woman's life or health. In *Casey*, the Court also held that prior to viability, restrictions on abortion must not constitute an undue burden on a woman's right to choose. An undue burden is one that has "the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus."[7] As numerous courts have found, blocking a woman's access to the abortion procedure that may be safest for her unduly burdens her right to choose.[8]
    - In *Planned Parenthood of Wisconsin v. Doyle*, the U.S. Court of Appeals for the Seventh Circuit concluded that Wisconsin's ban on so-called "partial-birth" abortion was problematic because it lacked an exception to protect women's health. "Wisconsin is taking chances of unknown magnitude with the health of pregnant women. This the Supreme Court's decisions do not permit."[9]
- In *Thornburgh v. American College of Obstetricians and Gynecologists*[10] and *Colautti v. Franklin,*[11] the Supreme Court established that it is unconstitutional to force a physician to make a "trade-off" between the woman's health and the state's interest in fetal life. The woman's health must remain the physician's primary concern, and the physician must be given the discretion he or she needs to choose the most appropriate abortion method.
- The ban unconstitutionally chills a physician's exercise of discretion in determining the best course of treatment and unduly burdens a woman's right to choose by imperiling her life and health.

The Ban Will Create an Unconstitutional Chilling Effect

- A bedrock principle of constitutional law prohibits the government from punishing individuals for violating a statute when the statute does not give "fair warning as to what conduct is prohibited."[12] The legislation utilizes the term "partial-birth" abortion, but this term does not have a medically recognized meaning. The definition of "partial-birth" abortion fails to identify clearly which procedures are prohibited by the ban. Although proponents of the ban claim that they are targeting a specific abortion method, courts across the country have found that the legislation could prohibit many methods of abortion.[13]
- Generally, under another important constitutional law principle, an individual may be punished as a criminal only for actions undertaken with at least some degree of criminal intent. Under the legislation, however, physicians could be criminally liable if -- in the exercise of their best medical judgment -- they determined that a woman's circumstances were so dire that she was covered by the life endangerment exception but this determination was later considered by a court, a jury or state medical review board to have been mistaken.

- The provision in the bill permitting a physician to seek a hearing before the state medical board regarding whether a banned procedure was necessary to save a woman's life endangered by certain physical threats does not mitigate the threat of criminal prosecution. The government can proceed with its prosecution of the physician regardless of the outcome of the state medical board hearing. Moreover, the medical board cannot decide in favor of a physician exercising his or her considered medical discretion to protect the patient's health unless it concludes that the procedure was in fact necessary to save the woman's life and that the cause of the life endangerment was a physical disorder, illness or injury.

- The ban will subject physicians to broad civil as well as criminal liability. Under the bill, a physician who performs a banned procedure may be sued for monetary damages by his or her patient, and in some cases, the woman's parents or the "father" of the fetus. The threat of unwarranted lawsuits is significant; abortion providers have already been targeted for civil litigation.[14]

- Under the legislation, physicians will be forced to guess whether employing the method they believe to be in the best medical interest of the patient would violate the law. They will face criminal liability without criminal intent and significant civil litigation. Such legal peril will further chill physicians' willingness to provide necessary abortion services and will unconstitutionally jeopardize women's lives and health.

January 8, 1999

Notes:

1. *Roe v. Wade*, 410 U.S. 113 (1973).
2. *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992).
3. The Alan Guttmacher Institute (AGI), "The Limitations of U.S. Statistics on Abortion," Jan. 1997 (Issues in Brief); AGI, "When Do Abortions Take Place?," September 25, 1996 (factsheet).
4. AGI, "The Limitations of U.S. Statistics on Abortion," 2.
5. AGI, "The Limitations of U.S. Statistics on Abortion," 1.
6. *Casey*, 505 U.S. at 879.
7. *Casey*, 505 U.S. at 877.
8. *See Planned Parenthood of Wisconsin v. Doyle*, No. 98-2521, slip op. at 6-9 (7th Cir. Nov. 3, 1998); *Planned Parenthood of Greater Iowa v. Miller*, No. 4-98-CV-90149, slip op. at 19-20 (S.D. Iowa Dec. 21, 1998); *Planned Parenthood of Central New Jersey v. Verniero*, No. 97-6170, slip op. at 44-45 (D.N. J. Dec. 8, 1998); *A Choice For Women v. Butterworth*, No. 98-0774-CIV, slip op. at 18 (S.D. Fla. Dec. 2, 1998); *Little Rock Family Planning Services v. Jegley*, No. LR-C-97-581, slip op. at 51-58, 61 (E.D. Ark. Nov. 13, 1998); *Hope Clinic v. Ryan*, 995 F. Supp. 847, 860 (N.D. Ill. 1998); *Evans v. Kelley*, 977 F. Supp. 1283, 1318 (E.D. Mich. 1997); *see also Planned Parenthood of Central Missouri v. Danforth*, 428 U.S. 52, 75-79 (1976).
9. *Doyle*, No. 98-2521, slip op. at 8.
10. *Thornburgh v. American College of Obstetricians and Gynecologists*, 476 U.S. 747, 769 (1986).
11. *Colautti v. Franklin*, 439 U.S. 379, 400 (1979).
12. *Women's Medical Professional Corp. v Voinovich*, 911 F. Supp. 1051, 1063 (S.D. Ohio 1995)(*citing Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972)), *affirmed*, 130 F.3d 187 (6th Cir. 1997), *cert. denied*, 118 S.Ct. 1347 (1998).
13. Several courts have ruled that bans on so-called "partial-birth" abortion and other abortion procedures encompass more than one method of abortion. *See, e.g., Doyle*, No. 98-2521, slip op. at 9-10; *Voinovich*, 130 F.3d at 198-200; *Milller*, No. 4-98-CV-90149, slip op. at 11-16; *Verniero*, No. 97-6170, slip op. at 38-39; *Butterworth*, No. 98-0774-CIV, slip op. at 14-16; *Jegley*, No. LR-C-97-581, slip op. at 46-48; *Eubanks v. Stengel*, No. 3:98CV-383H, slip op. at 18-19 (W.D. Ky. Nov. 5, 1998); *Ryan*, 995 F. Supp. at 854-57; *Planned Parenthood of Southern Arizona, Inc. v. Woods*, 982 F. Supp. 1369, 1378-79 (D. Ariz. 1997); *Evans*, 977 F. Supp. at 1306-12.
14. Julie Cohen, "Protecting Women or Harassing Doctors?" *Legal Times*, Feb. 14, 1994, 1; *see* David C. Reardon, *Abortion Malpractice* (Lewisville, Texas: Life Dynamics Inc. 1993).

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NARAL FACTSHEETS

LEGISLATION BANNING CERTAIN ABORTION PROCEDURES:

The So-Called "Partial-Birth" Abortion Ban Jeopardizes Women's Health

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Opponents of choice, by focusing the political debate on abortion late in pregnancy, are using sensational graphics and rhetoric to further their goal of making all abortion illegal. As part of their strategy, the 104th Congress passed a bill outlawing so-called "partial-birth" abortion. Although proponents of the legislation claim that they are targeting a specific abortion method, known medically as intact D&E, the legislation could prohibit other abortion procedures. The bill passed by the 104th Congress prevents doctors from exercising their best medical judgement, applies to abortions before and after viability, and contains no exception for when a banned procedure is necessary to preserve a woman's health. The President vetoed the bill. The veto was overridden in the House but sustained in the Senate. In the 105th Congress, a slightly amended version of the bill passed the Senate and House and was vetoed by the President. Congress will attempt to override the President's veto in the second session of the 105th Congress.

Ninety-nine Percent of Abortions Occur In the First Half of Pregnancy

- Ninety-nine percent of all abortions are performed in the first half of pregnancy and only four one-hundredths of one percent (.04%) are performed in the third trimester.[1] The point of fetal viability varies with each pregnancy although it is considered to occur no earlier than 23-24 weeks.[2]

- Only three doctors in the entire United States, located in California, Colorado and Kansas, are known to offer abortion services during the last three months of pregnancy as a regular part of their practice.[3]

Attempts to Ban Certain Abortion Procedures Politicize Personal Family Tragedies

A woman facing threats to her life or health or carrying a fetus that has been diagnosed with severe anomalies must have access to appropriate medical care, including abortion. Families and their physicians, not politicians, must be permitted to make these difficult decisions.

- At 32 weeks into her much-wanted pregnancy, Vikki Stella learned that her fetus had nine severe anomalies -- including a fluid-filled cranium with no brain tissue at all. Vikki, a mother of two, and her husband consulted a series of specialists who offered no hope. For Vikki, the safest procedure to protect her health and preserve her fertility was an intact D&E abortion -- a

procedure targeted by the legislation. "As a diabetic . . . this surgery was . . . safer for me than induced labor or a c-section, since I don't heal as well as other people. . . . I've been told mothers like me all want perfect babies . . . [My son] wasn't just imperfect -- he was incompatible with life. The only thing that was keeping him alive was my body."[4] Because Vikki's intact D&E preserved her fertility, she was able to have another child.

- In the fall of 1994, Tammy Watts and her husband were elated by the news of her pregnancy. An ultrasound in the seventh month, however, revealed that the fetus was suffering from a devastating chromosomal disorder and would not live. Knowing that the fetus was going to die, the Watts made the most difficult decision of their lives, and Tammy had an abortion that would be prohibited by the so-called "partial-birth" abortion ban. Commenting on the bill, Tammy said, "Until you've walked a mile in my shoes don't pretend to know what this is like for me. Everybody has got a reason for what they have to do. Nobody should be forced into having to make the wrong decision. That's what would happen if this legislation is passed."[5] Fortunately, Tammy had access to appropriate medical care and subsequently, she gave birth to a healthy baby girl.

The Legislation Undermines Roe v. Wade

- In *Roe v. Wade*, the U.S. Supreme Court recognized a woman's constitutional right to choose whether or not to have an abortion prior to fetal viability[6] *Roe* also established that this right is limited after viability, at which point states may ban abortion as long as an exception is provided for cases in which the woman's life or health is at risk. By ignoring these holdings, reaffirmed by the Court in the 1992 *Planned Parenthood v. Casey decision*,[7] the so-called "partial-birth" abortion ban presents a direct constitutional challenge to *Roe*.

- The ban applies throughout pregnancy in disregard of the crucial constitutional distinction between pre- and post-viability abortion. In addition, the ban's failure to provide an exception for cases in which the banned procedures are necessary to preserve a woman's health is a grave constitutional flaw.

- Nearly 90% of all abortions occur in the first trimester of pregnancy.[8] Only approximately one percent of abortions take place at 21 weeks or later.[9] Although states may ban virtually all abortion after viability, a point that varies with each pregnancy but is generally considered to take place no earlier than 23-24 weeks,[10] the U.S. Supreme Court held as late as 1992 that "[r]egardless of whether exceptions are made for particular circumstances, [the government] may not prohibit any woman from making the ultimate decision to terminate her pregnancy before viability."[11] The ban disregards the constitutionally protected status of second-trimester abortion and curtails a physician's ability to use the abortion method most appropriate in light of each woman's individual circumstances.

- The ban includes a narrow "life exception" that would permit a physician to use the procedure only if a woman's life was endangered by a "physical disorder, illness or injury." This exception may not apply to situations in which the threat to a woman's life is the pregnancy itself.

The Legislation Unconstitutionally Jeopardizes Women's Health

- As stated above, the Supreme Court held in *Roe* and reaffirmed in *Casey* that after viability, a state may not ban an abortion necessary to preserve a woman's life or health. In *Casey*, the Court also held that prior to viability, restrictions on abortion must not constitute an undue burden on a woman's right to choose. An undue burden is one that has "the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus."[12] Blocking a woman's access to the abortion procedure that is safest for her unduly burdens her right to choose.[13]

- In *Women's Medical Professional Corp. v. Voinovich*, the only court of appeals decision concerning bans on certain abortion procedures, the Sixth Circuit held that a ban on "dilation and extraction"(D&X) abortion was an undue burden on women seeking abortion prior to viability.[14] In addition, several lower courts have also concluded that a ban on so-called "partial-birth abortion" constitutes an undue burden on women seeking pre-viability abortions.[15]
- In *Thornburgh v. American College of Obstetricians and Gynecologists*[16] the Supreme Court established that a woman's right to choose is impermissibly burdened by a statute that "fail[s] to require that maternal health be the physician's paramount consideration" and forces her to "bear an increased medical risk in order to save her viable fetus."[17] Throughout pregnancy, the woman's health must remain the physician's primary concern, and the physician must be given the discretion he or she needs to choose the most appropriate abortion method.

- The American College of Obstetricians and Gynecologists (ACOG) states, "[a]n intact D&[E], however, may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, and only doctors, in consultation with the patient, based upon the woman's particular circumstances can make this decision."[19] By prohibiting a physician from using certain procedures except in limited circumstances, the bill unconstitutionally chills physicians' exercise of discretion in determining the best course of treatment and unduly burdens a woman's right to choose by unnecessarily compromising her life and health.

By Forcing Physicians to Face Unprecedented Criminal and Civil Liability, the Ban Will Exacerbate The Shortage of Providers and Endanger Women's Lives and Health

- The ban would subject physicians to broad civil as well as criminal liability. Under the bill, a physician who performs a banned procedure may be sued for monetary damages by his or her patient, and in some cases, the woman's parents or the "father" of the fetus. The threat of unwarranted lawsuits is significant; abortion providers have already been targeted for civil litigation.[19]

January 1998

NOTES:

1. The Alan Guttmacher Institute (AGI), "The Limitations of U.S. Statistics on Abortion," Jan. 1997 (Issues in Brief); AGI, "When Do Abortions Take Place?," September 25, 1996 (factsheet).
2. AGI, "The Limitations of U.S. Abortion Statistics," 1.
3. Gina Kolata, "In Late Abortions, Decisions are Painful and Options Few," *New York Times*,

Jan. 5, 1992, A1; David G. Savage, "Personal Stories to Join Debate Over Late-Term Abortion," *The Los Angeles Times*, Nov. 7, 1995, A3.
4. *The Partial-Birth Abortion Ban Act of 1995: Hearings on H.R. 1833 Before the Senate Comm. on the Judiciary*, 104th Cong., 1st Sess. 281-282 (1995) (testimony of Vikki Stella).
5. Tammy Watts, "There's no way to judge what another is experiencing," Santa Cruz County Sentinel, June 25, 1995, A13.
6. *Roe v. Wade*, 410 U.S. 113 (1973).
7. *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 871 (1992).
8. AGI, "The Limitations of U.S. Statistics on Abortion," 2; AGI, "When Do Abortions Take Place?"
9. AGI, "The Limitations of U.S. Statistics on Abortion," 2.
10. AGI, "The Limitations of U.S. Statistics on Abortion," 1.
11. Casey, 505 U.S. at 879.
12. Casey, 505 U.S. at 877.
13. See *Evans v. Kelley*, No. 97-CV-71246-DT, slip op. at 84-85 (E.D. Mich. July 31, 1997); see also *Planned Parenthood of Central Missouri v. Danforth*, 428 U.S. 52, 75-79 (1976).
14. *Women's Medical Professional Corp. v. Voinovich*, Nos. 96-3157/3159, slip op. at 26-27 (6th Cir. Nov. 18, 1997).
15. See, e.g., *Planned Parenthood of Southern Arizona v. Woods*, No. CIV 97-385-TUC-RMB, slip op. at 16-19 (D. Ariz. Oct. 24, 1997); *Evans v. Kelley*, No. 97-CV-71246-DT, slip op. at 83-85 (E.D. Mich. July 31, 1997); *Carhart v. Stenberg*, 972 F. Supp. 507, 523 (D. Neb. 1997) (granting preliminary injunction prohibiting enforcement of the statute as applied to plaintiff's performance of abortion on nonviable fetuses); see also *Planned Parenthood of Central Missouri v. Danforth*, 428 U.S. 52, 75-79 (1976).
16. *Thornburgh v. American College of Obstetricians and Gynecologists*, 476 U.S. 747, 769 (1986).
17. *Thornburgh*, 476 U.S. at 768-769.
18. ACOG Statement of Policy, "Statement on Intact Dilation and Extraction," January 12, 1997.
19. Julie Cohen, "Protecting Women or Harassing Doctors?" *Legal Times*, Feb. 14, 1994, 1; see David C. Reardon, *Abortion Malpractice*, (Lewisville, Texas: Life Dynamics Inc. 1993).

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NARAL Promoting Reproductive Choices Publications

NARAL FACTSHEETS

Leading Medical Groups Oppose Obstacles to Abortion

The American Medical Association (AMA), the American College of Obstetricians and Gynecologists (ACOG) and the American Medical Women's Association (AMWA) have all opposed obstacles that impair women's access to safe and early abortion services. Medical professionals understand the serious health risks created by state-mandated obstacles to legal abortion.

THE AMERICAN MEDICAL ASSOCIATION

The American Medical Association (AMA), which represents 294,000 members, supports the position that "the early termination of pregnancy is a medical matter between the patient and the physician, subject to the physician's clinical judgment, the patient's informed consent, and the availability of appropriate facilities."[1] In a report published in the *Journal of the American Medical Association*, the AMA found that mandatory waiting periods and other obstacles that delay abortion increase health risks and the costs incurred and decrease providers' willingness to perform the procedure.[2]

In addition, the AMA takes a strong stand against attempts to interfere with the freedom of communication between physician and patients:

> It is the policy of the AMA . . . to strongly condemn any interference by the government or other third parties that causes a physician to compromise his or her medical judgment as to what information or treatment is in the best interest of the patient . . . [and] to vigorously pursue legislative relief from regulations or statutes that prevent physicians from freely discussing with or providing information to patients about medical care and procedures or which interfere with the physician-patient relationship.[3]

The AMA has also found that parental consent and notice laws "appear to increase the health risks to the adolescent by delaying medical treatment or forcing the adolescent into an unwanted childbirth."[4] The organization takes the position that although physicians should encourage minors to discuss their pregnancy with their parents, they should not be forced to require minors to obtain parental consent before having an abortion:

> Physicians should not feel or be compelled to require minors to obtain consent of their parents before deciding whether to undergo an abortion. The patient -- even an adolescent -- generally must decide whether, on balance, parental involvement is advisable. Accordingly, minors should ultimately be allowed to decide whether parental involvement is appropriate.[5]

The AMA opposes restrictions on the public funding of abortion services and "reaffirms its opposition to legislative proposals that utilize federal or state health care funding mechanisms to deny established and accepted medical care to any segment of the population."[6]

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS

The American College of Obstetricians and Gynecologists (ACOG), which represents 33,000 members, has adopted a policy on abortion stating: "ACOG supports access to care for all individuals, irrespective of financial status, and supports the availability of all reproductive options. ACOG opposes unnecessary regulations that limit or delay access to care."[7]

ACOG recognizes that the issue of confidentiality creates significant barriers to access to health care for adolescents and that certain laws and regulations constraining the confidentiality of the patient-physician relationship are "unduly restrictive and in need of revision as a matter of public policy."[8] ACOG takes the position that "[u]ltimately, the health risks to the adolescents are so impelling that legal barriers and deference to parental involvement should not stand in the way of needed health care."[9]

THE AMERICAN MEDICAL WOMEN'S ASSOCIATION

The American Medical Women's Association (AMWA), which represents 12,000 members, supports "a woman's right to choose abortion without governmental intervention and without restrictions placed on her physician's medical judgement . . . ."[10] AMWA supports "access to abortion without regard to economic status"[11] as well as minor's access to abortion and contraceptive services without the requirement of parental notification or consent.[12]

10/29/96

Notes:

1. American Medical Association, "Right to Privacy in Termination of Pregnancy," *Policy Compendium 1996*, sec. 5.993.
2. American Medical Association, "Induced Termination of Pregnancy Before and After *Roe v. Wade*, Trends the Mortality and Morbidity of Women," *JAMA*, vol. 268, no. 22 (Dec. 1992): 3237.
3. American Medical Association, "Freedom of Communication Between Physicians and Patients," *Policy Compendium 1996*, sec. 5.989.
4. American Medical Association, *supra* note 2.
5. American Medical Association, Council on Ethical and Judicial Affairs, "Mandatory Parental Consent to Abortion" (1992), 7.
6. American Medical Association, "Public Funding of Abortion Services," *Policy Compendium 1996*, sec. 5.998.
7. American College of Obstetricians and Gynecologists, "ACOG Statement of Policy: ACOG Policy on Abortion" (Jan. 1993).
8. American College of Obstetricians and Gynecologists, "ACOG Statement of Policy: Confidentiality in Adolescent Health Care" (1988).
9. American College of Obstetricians and Gynecologists, "ACOG Statement of Policy: Confidentiality in Adolescent Health Care" (1988).
10. American Medical Women's Association, *AMWA Resolutions -- 1960-1991*, "Abortion," sec. 1989.1.
11. American Medical Women's Association, *AMWA Resolutions -- 1960-1991*, "Abortion," sec. 1989.3.
12. American Medical Women's Association, *AMWA Resolutions -- 1960-1991*, "Minors,

Consent," sec. 1991.1.

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NARAL
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NARAL FACTSHEETS

Protect Women: Oppose Bans On So-Called "Partial-Birth" Abortion

Opponents of choice have been using inflammatory rhetoric about "infanticide" and "partial-birth" abortion in a nationwide strategy to further their goal of eroding women's reproductive options. These legislators say they are trying to ban only one abortion procedure, but the vague and broadly worded legislation indicates another motive: they want a political tool to use against women and politicians to undermine support for reproductive choice.

- **Private medical decisions should be made by women and their families, not politicians.** Medical decisions are often difficult and complex and depend on a variety of individual factors. Politicians are not trained to make medical decisions and should not regulate medicine in a way that undermines the safety of patients. Bans on so-called "partial-birth" abortion would take medical decisions out of the hands of women and their families and give it to politicians.
    - The American College of Obstetricians and Gynecologists (ACOG), an organization dedicated to women's health, opposes this criminal ban because "[t]he intervention of legislative bodies into medical decision making is inappropriate, ill advised and dangerous."
- **Women's health would be endangered by bans on abortion procedures.** Despite repeated attempts, anti-choice lawmakers have refused to allow an exception to protect women's health. The Supreme Court has concluded in several cases that a woman's health must remain the physician's primary concern and that a physician must be given the discretion to determine the best course of treatment to protect women's lives and health.
- The ban violates the core principles of Roe v. Wade. In court challenges across the country, judges -- including judges appointed by Presidents Reagan and Bush -- have found similar bans on abortion procedures unconstitutional. These courts have concluded that:
    - The definition of what methods of abortion would be banned is vague and overbroad. "Partial-birth" abortion is a political term, not a medical term. Courts have found that it would ban a variety of safe and common abortion procedures, not just one procedure.
    - By banning a variety of safe abortion procedures, the bans impose an undue burden on women seeking access to abortions by forcing them to seek rely upon less safe medical options.
    - The bans are unconstitutional because they do not allow women to obtain a banned procedure when it would preserve her health.
- **Instead of making abortion more difficult and dangerous for women, lawmakers should promote policies that reduce the need for abortion.** Almost 50 percent of

all pregnancies in this country are unintended, including over 30 percent within marriage. And over half of all unintended pregnancies end in abortion. Improved access to contraception -- including increases in Title X funding, insurance coverage of contraception and improved contraceptive research -- would address the root causes of unintended pregnancy and would reduce the need for abortion.

May 1998

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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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