July 14, 2014

Senator
U.S. Senator
Washington, DC 20510

Dear Senator,

We, the undersigned representing millions of Americans in states across the country, are in strong opposition to the Women's Health Protection Act of 2013, S. 1696, introduced by Senator Richard Blumenthal (D-CT). If passed, this bill would undermine laws in our states that we have worked with state legislatures and Governors to pass in order to protect unborn children and to improve the health standards of abortion clinics to protect women's health.

Our states have worked to pass reasonable and commonsense restrictions on abortion including hospital admitting privileges, bans on abortion at 20 weeks, bans on tele-medicine and webcast chemical abortion and abortion clinic health regulations. The Supreme Court ruled in *Planned Parenthood v. Casey* that states have the authority to regulate and place reasonable restrictions on abortion. Even a liberal Supreme Court has upheld some restrictions on abortion as constitutional. This bill would go beyond current abortion jurisprudence and overturn state laws and reasonable protections, which many Americans support.

Americans are increasingly identifying themselves as pro-life. A recent Gallup Poll (May 2014) found that 47% of registered voters identified as pro-choice, while 46% of registered voters identified themselves as pro-life. However, when asked whether there should be reasonable restrictions and limitations on abortion, even voters who identify themselves as pro-choice agree that abortion should not be on demand and unrestricted. Of those who identify as pro-choice, 50% believe that abortion should be legal only under certain circumstances while only 28% believe that abortion should be legal under any circumstances. Even Americans who identify themselves as pro-choice support reasonable restrictions on abortion; this law is completely out of touch with the constituents in our states.

We believe, and the Supreme Court has affirmed, that abortion is unlike any other medical procedure. We have taken steps to protect women and unborn children in our state and these important measures have saved countless lives in our states. Additionally, each year more state pro-life laws are being introduced and passed (21 measures this year alone) and year after year our constituents are electing representatives to the state legislature who represent their views, their priorities and their positions. Senator Blumenthal's bill would undermine the will of the people and restrict their voice in the political and lawmaking process.

Again, on behalf of Americans we represent in states across the country, we oppose the Women's Health Protection Act sponsored by Senator Blumenthal. The federal government

should not trump our ability to protect women and unborn children in our state with reasonable and constitutional restrictions on abortion.

Sincerely,

Tony Perkins, President
Family Research Council

Gene Mills, President
Louisiana Family Forum

Phil Burress, President
Citizens for Community Values Action

Jerry Cox, President
Arkansas Family Council

David E. Smith, Executive Director
Illinois Family Institute

Thomas J. Shaheen, Vice President for Policy
Pennsylvania Family Council

Bryan McCormack, Executive Director
Cornerstone Action (New Hampshire)

David Bydalek, Policy Director
Nebraska Family Alliance

Kent Ostrander, Executive Director
The Family Foundation (Kentucky)

Jason McGuire, Executive Director
New Yorkers for Constitutional Freedoms

Nicole Stacy, Public Policy Assistant
Family Institute of Connecticut

Nicole Theis, President
Delaware Family Policy Council

Cathi Herrod, President
Center for Arizona Policy

John Helmberger, CEO
Minnesota Family Council

TERRY E. BRANSTAD
GOVERNOR

OFFICE OF THE GOVERNOR

KIM REYNOLDS
LT. GOVERNOR

July 15, 2014

United States Senate Committee on the Judiciary
Attn: Patrick Leahy, Chairman, and Chuck Grassley, ranking member
224 Dirksen Senate Office Building
Washington, D.C. 20510-6050

Dear Chairman Leahy and Ranking Member Grassley,

We are writing in opposition to S. 1696. If enacted, this bill will invalidate hundreds of laws that protect unborn children and women who are considering abortion. This legislation would prevent states from enacting lifesaving protections such as ultrasound requirements, informed consent requirements, regulations of abortion-inducing drugs, health and safety standards for abortion facilities, and limitations on dangerous late-term abortions.

The United States Supreme Court recognizes that the states have "a legitimate interest in seeing to it that abortion, like any other medical procedure, is performed under circumstances that insure maximum safety for the patient." *Roe v. Wade*, 410 U.S. 113, 150 (1973). This legislation would remove the ability of states to enact medically necessary and widely supported regulations of the abortion industry. When a law is passed it is generally presumed to be constitutional. However, S. 1696 only requires that an abortion provider or anyone else challenging an abortion-related law demonstrate that the law "singles out the provision of abortion services or facilities in which abortion services are performed" or that it "impedes women's access to abortion services." S. 1696 would then place a high burden on the state to justify the law.

We believe in protecting innocent human life and preventing the serious health risks abortion poses to women, including:

- Short term risks of blood loss, blood clots, incomplete abortion, and infections;
- Increased risk of pre-term birth or placenta previa in future pregnancies;
- Increased instances of mental health problems, including anxiety and depression; and,
- A risk of maternal death three times greater than with childbirth.

Kermit Gosnell's "House of Horrors" illustrates the dangers of a self-regulated abortion industry. We believe in promoting women's health and protecting those who cannot protect themselves. S. 1696 seeks to prevent the states from accomplishing these goals.

We respectfully urge you to oppose this legislation.

Sincerely,

Terry E. Branstad
Governor of Iowa

Kim Reynolds
Lieutenant Governor of Iowa

http://www.politicsdaily.com/2011/01/23/kermit-gosnells-pro-choice-enablers-how-clinics-become-death-t/

Kermit Gosnell's Pro-Choice Enablers (Is This What an Industry That Self-Regulates Looks Like?)

10 hours ago

Melinda Henneberger
Editor in Chief

The ultimate non-partisan body – a criminal grand jury – has supplied us with the graphic, 261-page horror story of Kermit Gosnell, M.D., who stands accused of butchering seven babies – yes, after they were born alive -- and fatally doping a refugee from Nepal with Demerol in a clinic that smelled of cat urine, where the furniture was stained with blood and the doctor kept a collection of severed baby feet. As often as possible, the report says, Gosnell induced labor for women so pregnant that, as he joked on one occasion, the baby was so big he could "walk me to the bus stop." Then, hundreds of times over the years, he slit their little necks, according to the grand jury report:

> **[He] regularly and illegally delivered live, viable, babies in the third trimester of pregnancy – and then murdered these newborns by severing their spinal cords with scissors. The medical practice by which he carried out this business was a filthy fraud in which he overdosed his patients with dangerous drugs, spread venereal disease among them with infected instruments, perforated their wombs and bowels – and, on at least two occasions, caused their deaths. Over the years, many people came to know that something was going on here. But no one put a stop to it.**

And the kicker? This nightmare facility had not been inspected in 17 years – other than by someone from the National Abortion Federation, whom he actually invited there. For whatever reason, Gosnell applied for NAF membership two days after the death of the 41-year-old Nepalese woman, Karnamaya Mongar. Even on a day when the place had been scrubbed and

spiffed up for the visit, the NAF investigator found it disgusting and rejected Gosnell's application for membership. But despite noting many outright illegalities, including a padlocked emergency exit in a part of the clinic where women were left alone overnight, the grand jury report notes that the NAF inspector did not report any of these violations to authorities:

> So too with the National Abortion Federation. NAF is an association of abortion providers that upholds the strictest health and legal standards for its members. Gosnell, bizarrely, applied for admission shortly after Karnamaya Mongar's death. Despite his various efforts to fool her, the evaluator from NAF readily noted that records were not properly kept, that risks were not explained, that patients were not monitored, that equipment was not available, that anesthesia was misused. It was the worst abortion clinic she had ever inspected. Of course, she rejected Gosnell's application. She just never told anyone in authority about all the horrible, dangerous things she had seen.

The report says outright that the lack of oversight after pro-life Democrat Bob Casey left the Pennsylvania governor's office in 1993 was overtly political. When pro-choice Republican Tom Ridge took over for Casey, the report says,

> ...[t]he Pennsylvania Department of Health abruptly decided, for political reasons, to stop inspecting abortion clinics at all. The politics in question were not anti-abortion, but pro. With the change of administration from Governor Casey to Governor Ridge, officials concluded that inspections would be "putting a barrier up to women" seeking abortions. Even nail salons in Pennsylvania are monitored more closely for client safety. Without regular inspections, providers like Gosnell continue to operate; unlawful and dangerous third-trimester abortions go undetected; and many women, especially poor women, suffer.

This is where those of you who are pro-choice may well want to cross your arms over your chest, but the kind of regulation that *if enforced* might have prevented this atrocity is in all cases seen as an infringement by abortion rights advocates, and thus is strenuously opposed. In Evansville, Indiana, for instance, the pro-choice community was outraged in 2008 after county commissioners passed an ordinance requiring abortion clinic doctors to have hospital admitting privileges. As an Evansville Courier editorial decrying the ordinance put it, "Abortion rights groups see it as an attempt to harass abortion providers and to limit women's access to legal abortions." But wouldn't such a requirement also provide a degree of protection to women – particularly the poor, immigrant population Gosnell preyed upon? Not surprisingly, Gosnell had no such hospital admitting privileges, though he was well known to local hospital doctors who, the report says, regularly had to clean up after him, and treat patients like the 19-year-old who had to have a hysterectomy after Gosnell punctured her uterus.

Abortion-rights activists call such regulations "TRAP laws" – short for Targeted Regulation of Abortion Providers; these laws attempt to regulate abortion clinics at the same level of other outpatient surgical centers, for instance by requiring that

hallways be wide enough to get a gurney through if something goes wrong. What difference could that possibly make? Well, it took Emergency Medical Service workers 20 minutes to get Karnamaya Mongar out of Gosnell's clinic and into an ambulance because the hallways were blocked and the emergency exit padlocked. (Here, Tarina Keene, the executive director of NARAL Pro-Choice Virginia, registers the standard complaint that such regulation is too costly and is "really just designed to shut these places down. It has nothing to do with medical care.")

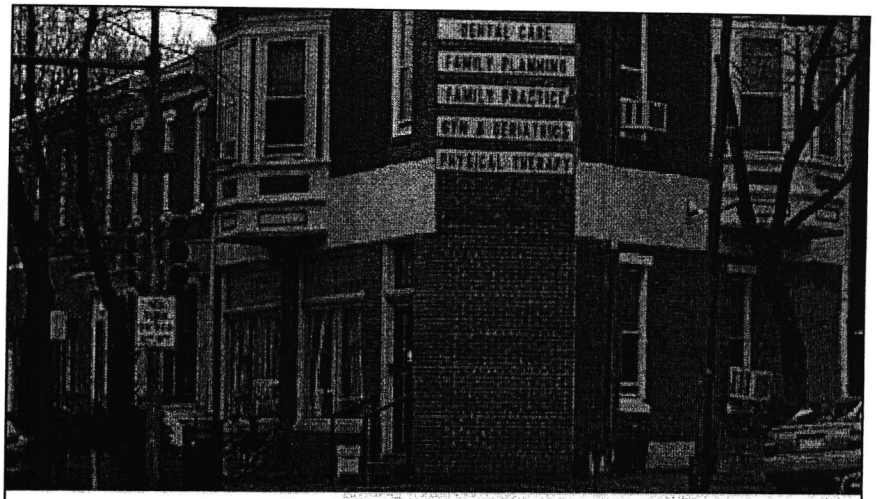
Only, on the day of the annual marches marking the 38th anniversary of Roe v. Wade, I want to ask my pro-choice friends whether opposing all regulation is in fact in the best interest of the women I know you care about. Wherever you stand on this issue – and I am a liberal Catholic who is not pro-choice – we agree that what Gosnell is accused of doing exceeds all bounds of decency. But without regulation and enforcement, how can we be sure there aren't other Gosnells out there?

Other kinds of free-standing ambulatory clinics are inspected periodically by state health departments, but abortion clinics are not, says Mary Spaulding Balch, of National Right to Life, who tracks legislation and regulations in all 50 states. And, again quoting from the grand jury report, here is what the lack of enforcement of regulations already on the books looks like:

> Almost a decade ago, a former employee of Gosnell presented the Board of Medicine with a complaint that laid out the whole scope of his operation: the unclean, unsterile conditions; the unlicensed workers; the unsupervised sedation; the underage abortion patients; even the over-prescribing of pain pills with high resale value on the street. The department assigned an investigator, whose investigation consisted primarily of an offsite interview with Gosnell. The investigator never inspected the facility, questioned other employees, or reviewed any records. Department attorneys chose to accept this incomplete investigation, and dismissed the complaint as unconfirmed.

Shortly thereafter the department received an even more disturbing report – about a woman, years before Karnamaya Mongar, who died of sepsis after Gosnell perforated her uterus. The woman was 22 years old. A civil suit against Gosnell was settled for almost a million dollars, and the insurance company forwarded the information to the Department of State. That report should have been all the confirmation needed for the complaint from the former employee that was already in the department's possession. Instead, the department attorneys dismissed this complaint, too. They concluded that death was just an "inherent" risk, not something that should jeopardize a doctor's medical license.

The same thing
happened at least twice more: The department received complaints about lawsuits against Gosnell, but dismissed them as meaningless. A department attorney said there was no "pattern of conduct." He never bothered to check a national litigation database, which would have shown that Gosnell had paid out damages to at least five different women whose internal organs he had punctured during abortions."


Kermit Gosnell's clinic. (Matt Rourke, AP)

Though we're constantly told that there are only a handful of brave doctors performing late-term abortions, an '06 survey by the pro-choice Guttmacher Institute in New York found that about 1.5 percent of the 1.2 million abortions performed annually – in other words, about 18,000 abortions a year -- are performed at 21 weeks or later. Nearly a quarter of providers, according to Guttmacher, offer abortions after 20 weeks, and slightly more than 1 in 10 will perform an abortion after 24 weeks. That translates to 140 known providers doing truly late-term procedures. But as the National Right to Life's Douglas Johnson asks, "Do you suppose this guy in Philadelphia was dutifully filling out the Guttmacher reports and turning them in?"

I'm well aware that the counter-argument is that if late-term abortions in particular were more readily accessible and less stigmatized, there would be fewer Gosnells in this world. But how stigmatized was he, pocketing $1.8 million a year while allegedly maiming women and killing their living, breathing children with no apparent fear of detection from officials who according to the grand jury feared that inspections would pose obstacles to choice?

Though I've never heard of any case this grisly, Johnson says it's "not all that isolated a case, but usually they're just local news stories." Last year, the license of New Jersey abortion doctor Stephen Brigham was pulled after authorities learned he was routinely starting illegal late-term abortions in New Jersey then transporting the women to Maryland to finish the job. And how was he discovered? Again, by accident. According to a recent story by The Associated Press, "Brigham's practices first caught the attention of Maryland regulators after a patient was hospitalized with a ruptured uterus and small intestine."

This story reports on the owners of several shoddy Florida clinics, including the one in Hialeah where in 2006, an 18-year-old who was 23 weeks pregnant gave birth to a child whose body was discovered, according to the police, after someone reported hearing crying coming from a trash can. Officers who searched the clinic said they finally found the body where it had been moved -- in a biohazard bag stashed on the clinic's roof.

And a case that made the news 20 years ago now involved New York's Abu Hayat, whom the tabloids dubbed "The Butcher of Avenue A." As it happened, I knew Hayat by sight – and talk about the banality of evil -- because he lived in my building, where I frequently wound up sharing a lap lane with him in the pool.

In each of these well-known cases, many more victims came forward after some particularly gruesome event brought these doctors' methods to light; how many more like them go undetected?

In 2002, a piece of legislation called the "Born-Alive Infant Protection Act" began requiring doctors to treat children born alive during abortions the same way they treat other newborns. Initially, advocates for choice adamantly opposed that legislation, too, as an assault on Roe v. Wade.

But what about assaults on children who, having somehow gotten out of the birth canal alive, we agree *are* children? And what of the assaults on women, who uniformly deserve sterile conditions and an unlocked emergency exit? How can we know they are treated competently without the regulation and oversight of this, as any other industry? Just like other industries, the abortion industry prefers the self-policing that in the Gosnell case did not prevent tragedy any more than the self-regulation and lax enforcement of the oil industry prevented the BP oil spill.

On Saturday, President Obama affirmed his support for Roe v. Wade by saying that "government should not intrude on private family matters." But it's a hands-off lack of oversight that allowed Kermit Gosnell to do so much damage before he was finally stopped – by accident, by authorities investigating him for over-prescribing OxyContin.

Perhaps Gosnell himself best summed up the underlying problem at his arraignment, where he reportedly seemed confused by the proceedings: "I understand the one count, because a patient died," he told the court, "but I didn't understand the seven counts." It apparently never occurred to him that the dead infants – one of them photographed in a plastic shoe box, another kept frozen in a gallon of spring water – were people, too.

Maternal – Fetal Medicine
Obstetrics and Gynecology
ROBERT C. BYRD
HEALTH SCIENCES CENTER
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11 July 2014

Dear Chairman Leahy and Ranking Member Grassley,

I, the undersigned individual and member of organizations whose members include physicians and other healthcare professionals, am writing to urge you to oppose S. 1696, the so-called "Women's Health Protection Act." We all share a profound interest in protecting the health and welfare of women considering abortion and their unborn children and support federal and state laws that advance these efforts. Quite the opposite, the enactment of S. 1696 would invalidate hundreds of federal and state abortion-related laws and permit abortion providers to set the standard of care for their patients with no oversight from state officials and no effective remedies for the abortion industry's deficiencies and frequent malfeasance.

S. 1696 adopts the myth that abortion is "essential to women's health," and asserts that laws restricting the practice are "medically unwarranted" and "harm women." In reality, laws regulating abortion have the dual effect of protecting women and their unborn children. Abortion bans (*e.g.* gestational limits and sex-selection bans), health and safety standards for abortion facilities, admitting privileges requirements, regulations on abortion-inducing drugs, reflection periods and other informed consent requirements, and ultrasound requirements—all of which would be invalidated under S. 1696—protect women from the dangers inherent to abortion.

Abortion can cause serious physical and psychological (both short- and long-term) complications for women, including but not limited to: uterine perforation, uterine scarring, cervical perforation or other injury, infection, bleeding, hemorrhage, blood clots, failure to actually terminate the pregnancy, incomplete abortion (retained tissue), pelvic inflammatory disease, endometritis, missed ectopic pregnancy, cardiac arrest, respiratory arrest, renal failure, metabolic disorder, shock, embolism, coma, placenta previa in subsequent pregnancies, preterm delivery in subsequent pregnancies *(at least 140 peer review articles supporting this risk)*, free fluid in the abdomen, organ damage, adverse reactions to anesthesia and other drugs, an increased risk of breast cancer, psychological or emotional complications such as depression, anxiety, sleeping disorders *(at least 116 peer review articles supporting these risks)*, and death. **Calhoun BC.** Systematic Review: The maternal mortality myth in the context of legalized abortion. The Linacre Quarterly; 80 (3) 2013, 264–276. **DOI:** http://dx.doi.org/10.1179/2050854913Y.0000000004.

However, S. 1696 would invalidate every law specifically requiring the disclosure of these risks to women, as well as abortion provider regulations enacted to ensure that women suffering complications from abortion receive appropriate medical care.

Importantly, abortion has a higher medical risk when the procedure is performed later in pregnancy. Compared to an abortion at eight (8) weeks gestation or earlier, the relative risk increases exponentially at higher gestations. L. Bartlett et al., *Risk factors for legal induced abortion-related mortality in the United States*, OBSTETRICS & GYNECOLOGY 103(4):729 (2004). As noted in the Bartlett study, gestational age is the strongest risk factor for abortion-related mortality (731). Compared to abortion at eight weeks gestation, the relative risk of mortality increases significantly (by 38 percent for each additional week) at higher gestations (729-31).

In other words, a woman seeking an abortion *at 20 weeks is 35 times more likely to die from abortion* than she was in the first trimester. *At 21 weeks or more, she is 91 times more likely to die* from abortion than she was in the first trimester.

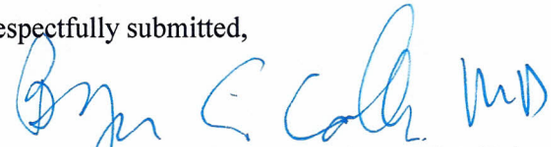
Yet, S. 1696 would invalidate laws limiting late-term abortion. In fact, even post-viability abortions bans would require a "health" exception so broad that virtually all abortions would be permitted.

Fundamentally, the United States Supreme Court has long recognized that the states have "a legitimate interest in seeing to it that abortion, like any other medical procedure, is performed under circumstances that insure maximum safety for the patient. This interest obviously extends at least to the performing physician and his staff, to the facilities involved, to the availability of after-care, and to adequate provision for any complication or emergency that might arise." *Roe v. Wade*, 410 U.S. 113, 150 (1973).

The Court has also repeatedly acknowledged that "abortion is inherently different from other medical procedures, because no other procedure involves the purposeful termination of a potential life." *Harris v. McRae*, 448 U.S. 297, 325 (1980). The acknowledgement of this distinct difference between abortion and other procedures has led the Court to grant states increasing latitude in the regulation of abortion. Invalidating these laws and regulations through one sweeping federal bill would greatly harm women and their unborn children.

S. 1696 will not protect women's health—it will only protect the abortion industry. I respectfully urge you to oppose this dangerous legislation. If you have questions do not hesitate to contact me at 304-388-1599 or my email at byron.Calhoun@camc.org.

Respectfully submitted,



Byron C. Calhoun, MD, FACOG, FACS, MBA
Vice-Chair, Department of Obstetrics and Gynecology
Virginia University-Charleston
Charleston, WV

Attch: Preterm birth (140 references) &
& Psychological Effects (116 references)
Publication lists

cc: Members of the United States Senate Judiciary Committee

July 15, 2014

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We, the undersigned individuals and organizations whose members include physicians and other healthcare professionals are writing to urge you to oppose S. 1696, the so-called "Women's Health Protection Act." We share a profound interest in protecting the health and welfare of women considering abortion and their unborn children and support federal and state laws that advance these efforts. Quite the opposite, the enactment of S. 1696 would invalidate hundreds of federal and state abortion-related laws and permit abortion providers to set the standard of care for their patients with no oversight from state officials and no effective remedies for the abortion industry's deficiencies and frequent malfeasance.

S. 1696 adopts the myth that abortion is "essential to women's health," and asserts that laws restricting the practice are "medically unwarranted" and "harm women." In reality, laws regulating abortion have the dual effect of protecting women and their unborn children. Abortion bans (*e.g.* gestational limits and sex-selection bans), health and safety standards for abortion facilities, admitting privileges requirements, regulations on abortion-inducing drugs, reflection periods and other informed consent requirements, and ultrasound requirements—all of which would be invalidated under S. 1696—protect women from the dangers inherent to abortion.

Abortion can cause serious physical and psychological (both short- and long-term) complications for women, including but not limited to: uterine perforation, uterine scarring, cervical perforation or other injury, infection, bleeding, hemorrhage, blood clots, failure to actually terminate the pregnancy, incomplete abortion (retained tissue), pelvic inflammatory disease, endometritis, missed ectopic pregnancy, cardiac arrest, respiratory arrest, renal failure, metabolic disorder, shock, embolism, coma, placenta previa in subsequent pregnancies, preterm delivery in subsequent pregnancies, free fluid in the abdomen, organ damage, adverse reactions to anesthesia and other drugs, an increased risk of breast cancer, psychological or emotional complications such as depression, anxiety, sleeping disorders, and death.

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S. 1696 will not protect women's health—it will only protect the abortion industry. We respectfully urge you to oppose this dangerous legislation.

Sincerely,

The Association of American Physicians & Surgeons

American Association of Pro-life Obstetricians and Gynecologists

Catholic Medical Association

Christian Medical Association

Physicians for Life

National Association of Catholic Nurses-U.S.A.

National Association of Pro-life Nurses

Steve Calvin MD, Medical Director, the Minnesota Birth Center

John M. Thorp Jr. MD,MSC

cc: Members of the United States Senate Judiciary Committee

July 15, 2014

The Honorable Patrick Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles Grassley
Ranking Minority Member
Committee on the Judiciary
United States Senate
Washington, DC 201510

Dear Chairman Leahy and Senator Grassley:

We, the undersigned state officeholders, write to register our strong opposition to Sen. Richard Blumenthal's proposed legislation, S.1696. As a coalition of pro-life women lawmakers devoted to measures that enhance the well-being of women and respect for the intrinsic value of human life, we are profoundly alarmed by Congressional consideration of an extreme and unwarranted measure like S.1696. At one fell stroke this legislation would undo decades' worth of commonsense legislation that has passed muster with the people of our state, their elected representatives, and our courts.

This radical bill will expose women and their unborn children to an ungovernable regime of abortion until the time of birth. It will, among other harms:

- overturn any and all efforts to provide legislative response to abortionists like Kermit Gosnell who operate under filthy and dangerous conditions;
- destroy protections for children in the womb late in pregnancy – even after the fifth month, by which time the baby can feel excruciating pain;
- eradicate legislation to provide informed consent and a reflection period before an abortion can be performed;
- compel public funding for the performance of abortions and require non-physicians to be permitted to train for and carry out abortions; and
- expose the unborn to abortion merely on account of their sex – in nearly all cases because they are, like us, female.

Rather than promote consensus legislation on this issue that respects the differences between the federal and state roles in our system of government, S. 1696 would uproot literally hundreds of protective laws that have passed legislative scrutiny and judicial review. It will, instead, create a void into which the worst practitioners of abortions like Kermit Gosnell will surely and swiftly rush.

We plead with the members of this honorable committee to refrain from so rash and ill-considered a proposal and to recognize the strong opposition of the American people to S. 1696.

Sincerely,

The Honorable Wendy Nanney, House of Representatives, South Carolina
The Honorable Key Ivey, Lieutenant Governor, Alabama
The Honorable Bette Grande, House of Representatives, North Dakota
The Honorable Lori Saine, House of Representatives, Colorado
The Honorable Jeanine Notter, House of Representatives, New Hampshire
The Honorable Vicky Steiner, House of Representatives North Dakota
The Honorable Stacey Guerin, House of Representatives, Maine
The Honorable Angela Hill, Senate, Mississippi
The Honorable Cathy Giessel, Senate, Arkansas
The Honorable Nancy Jacobs, Senate, Maryland
The Honorable Lenette Peterson, House of Representatives, New Hampshire
The Honorable Kathy Rapp, House of Representatives, Pennsylvania
The Honorable Pam Peterson, House of Representatives, Oklahoma
The Honorable Karen Rohr, House of Representatives, North Dakota
The Honorable Alison Littell McHose, Assembly, New Jersey
The Honorable Leslie Nutting, Senate, Wyoming
The Honorable Donna Hicks Wood, House of Representatives, South Carolina
The Honorable Donna Oberlander, House of Representatives, Pennsylvania
The Honorable Ruth Samuelson, House of Representatives, North Carolina
The Honorable Margaret Sitte, Senate, North Dakota
The Honorable Kimberly Yee, Senate, Arizona
The Honorable Marian Cooksey, House of Representatives, Oklahoma
The Honorable Jacqueline Schaffer, House of Representatives, North Carolina
The Honorable Joyce Fitzpatrick, House of Representatives, Maine
The Honorable RoseMarie Swanger, House of Representatives, Pennsylvania
The Honorable Ellie Espling, House of Representatives, Maine
The Honorable Janice Bowling, Senate, Tennessee
The Honorable Marti Coley, House of Representatives, Florida
The Honorable Terri Collins, House of Representative, Alabama
The Honorable Paulette Rakestraw-Braddock, House of Representatives, Georgia

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[Note: More than a few authors refer to the 'Mandelson' study as NOT finding higher risk of Low Birth Weight for women with prior induced abortions; such authors should be checked for 'seeing glasses', since Mandelson et al found that women with ANY (i.e. 1, 2, 3, or more) prior induced abortions BEFORE a first delivery had SIGNIFICANTLY higher risk of low birthweight babies; so, you are invited to get a copy of the Mandelson study & read it yourself.] [Study Population: U.S. Women] URL: http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1694356/pdf/amjph00540-0065.pdf

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*** studies that included spontaneous and induced abortions but did not report PTB/LBW risk separately for each**
+ studies that found dose/response (the more SIAs, the higher the risk)

Twenty-one (21) Statistically Significant AVPB and AVLBW Studies

A1+ Watson LF, Rayner J-A, King J, Jolley D, Forster D, Lumley J.
Modelling prior reproductive history to improve predication of risk for very preterm birth. Paediatric Perinatal Epidemiology 2010;24:402-415

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A3 Reime B, Schuecking BA, Wenzlaff P. Reproductive Outcomes in Adolescents Who Had a Previous Birth or an Induced Abortion Compared to Adolescents' First Pregnancies. BMC Pregnancy and Childbirth 2008;8:4

A4+ Voigt M, Olbertz D, Fusch C, Krafczyk D. Briese V, Schneider KT.
The influence of previous pregnancy terminations, miscarriages, and still-birth on the incidence of babies with low birth weight and premature births as well as somatic classification of newborns.
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Maternal and biochemical predictors of spontaneous preterm birth among nulliparous women: a systematic analysis in relation to degree of prematurity. International J Epidemiology 2006;35(5): 1169-1177

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A7+ Moreau C, Kaminski M, Ancel PY, Bouyer J, et al. Previous
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blackwell-synergy.com/links/doi/10.1111/j.1471-0528.2004.00478.x/abs/]

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History of induced abortion as a risk factor for preterm birth in European countries: results of EUROPOP survey. Human Reprod 2004;19(3):734-740.

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Very and moderate preterm births: are the risk factors different?
British J Obstetrics Gynaecology 1999;106:1162-1170.

A10+ Zhou W, Sorenson HT, Olsen J. Induced Abortion and Subsequent
Pregnancy Duration. Obstetrics & Gynecology 1999;94:948-953.

A11+ Martius JA, Steck T, Oehler MK, Wulf K-H. Risk factors associated
with preterm (<37+0 weeks) and early preterm (<32+0 weeks): univariate and multi-variate analysis of 106 345 singleton births from
1994 statewide perinatal survey of Bavaria. European J Obstetrics Gynecology Reproductive Biology 1998;80:183-189.

A12+ Lumley J. The association between prior spontaneous abortion,
prior induced abortion and preterm birth in first singleton births.
Prenat Neonat Med 1998;3:21-24.

A13+ Lumley J. The epidemiology of preterm birth. Bailliere's Clin
Obstet Gynecology 1993;7(3):477-498

A14+ Algert C, Roberts C, Adelson P, Frammer M. Low birth weight
in New South Wales, 1987: a Population-Based Study. Aust New Zealand J Obstet Gynaecol 1993;33:243-248

A15+* Zhang J, Savitz DA. Preterm Birth Subtypes among Blacks
and Whites. Epidemiology 1992;3:428-433.

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in a preterm birth prevention study of indigent patients. Amer J Obstetrics & Gynecol 1989;160:829-837.

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previous induced abortion: Victoria 1982-1983. Aust NZ J Obstet Gynecol 1986;26:268-272.

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Ryan K. Association of Abortion With Subsequent Pregnancy Loss. JAMA 1980;243(24):2495-2499

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1:270-272 [>95% confident of preterm risk for gestation less than 32.0 weeks].

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*** studies that included spontaneous and induced abortions but did not report PTB/LBW risk separately for each**

+ studies that found dose/response (the more SIAs, the higher the risk)

!! Significant VPB (Very Preterm Birth) and/or AVLBW (Very Low Birth Weight)

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Representative Duffy Daugherty
New Hampshire State Representative Coos District 1
98 Harvey Swell Road
Colebrook, NH 03576-3424

July 15, 2014

Dear Chairman Leahy and Ranking Member Grassley,

We the undersigned state legislators write in opposition to the disingenuously named *Women's Health Protection Act*, S. 1696. If enacted, this bill would invalidate hundreds of laws seeking to protect women considering abortion and their unborn children. Furthermore, it would bar our states from enacting common sense protections such as ultrasound requirements, informed consent requirements, regulations of abortion-inducing drugs, health and safety standards for abortion facilities, and limitations on dangerous late-term abortion—protections that can save the lives of unborn children and protect women.

The United States Supreme Court recognizes that the states have "a legitimate interest in seeing to it that abortion, like any other medical procedure, is performed under circumstances that insure maximum safety for the patient. This interest obviously extends at least to the performing physician and his staff, to the facilities involved, to the availability of after-care, and to adequate provision for any complication or emergency that might arise." *Roe v. Wade*, 410 U.S. 113, 150 (1973).

It would be inappropriate for the Federal government to strip away the ability for state legislators to enact medically appropriate and widely supported regulations of abortion—but that is exactly what S. 1696 seeks to do.

Further, S. 1696 improperly shifts the burden to justify life-affirming legislation to the states. Usually when a law is passed, it is presumed to be constitutional and permissible by the courts, and it is the responsibility of the parties challenging the law to prove that the law is improper.

However, the enactment of S. 1696 would improperly shift that burden. An abortion provider or anyone else challenging an abortion-related law would only be required to demonstrate that an abortion-related law "singles out the provision of abortion services or facilities in which abortion services are performed" or that the law "impedes women's access to abortion services." Presumably then, a self-interested abortion provider could simply submit an affidavit claiming that the law would impede or interfere with his or her current operations and that would suffice to shift the burden to state officials to defend the law. Moreover, S. 1696 then places a very high burden on states to justify the law.

We know that abortion is deadly for an unborn child and that abortion poses serious risks to a woman's health, including:

- Short term risks of blood loss, blood clots, incomplete abortion, infections, cervical lacerations, and injuries to other organs;
- Increased risk of pre-term birth or placenta previa in future pregnancies;
- Increase instances of mental health problems, including anxiety, depression, alcohol abuse, and suicide ideation; and, that
- The risk of maternal death three times greater with abortion than with childbirth.

Despite the overwhelming evidence of the harm to women from abortion, S. 1696 seeks to tie the hands of the state legislators from enacting protections for women and their unborn children, and instead relies on the abortion industry to regulate itself. Kermit Gosnell's "House of Horrors" is all the evidence that Americans need to oppose a self-regulated abortion industry.

We respectfully urge you to oppose this dangerous legislation.

Sincerely,

Duffy Daugherty

cc: Members of the United States Senate Judiciary Committee

Oklahoma State Senate

Greg Treat
District 47

July 15, 2014

Dear Chairman Leahy and Ranking Member Grassley,

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We respectfully urge you to oppose this dangerous legislation.

Sincerely,

Senator Greg Treat, District 47

cc: Members of the United States Senate Judiciary Committee

Representative Randy Grau
Assistant Majority Floor Leader
House District 81
State Capitol Building
2300 N. Lincoln Blvd., Room 338
Oklahoma City, OK 73105
Phone (405) 557-7360
Fax (405) 962-7804
Email: randy.grau@okhouse.gov

House of Representatives
STATE OF OKLAHOMA

Committees

Vice Chairman:
A&B Higher Education

Committee Member:
Judiciary
Public Health
Public Safety

July 15, 2014

Dear Chairman Leahy and Ranking Member Grassley:

The *Women's Health Protection Act,* S. 1696 does not protect women, but in fact, as written, it would detrimentally affect the health of women throughout this nation. If enacted, this bill would roll back many of the advancements made in protecting women and ensuring that the best health care is available for every patient. It would likely invalidate the laws of several states that address reasonable safeguards for women considering abortion.

It is well within the constitutional authority of the state of Oklahoma to regulate the practice of medicine within its borders. This legislation would prohibit states such as mine from enacting common sense protections such as ensuring that patients are informed fully regarding all medical options and that certain clinics maintain the highest levels of safety standards. It may also undermine FDA regulatory authority by allowing certain drugs to be used outside of tested and approved protocols despite the evidence of serious harm to women treated in an unapproved manner.

As the author of landmark legislation in Oklahoma regarding women's health, as well as a member of both the House Public Health and Judiciary committees, I understand fully the overreach of federal power contained within this legislation. It is clear that through this legislation some of your number are attempting to strip away the ability of state legislators to enact medically appropriate and widely supported regulations of abortion. Regulations that in fact DO protect women's health, as opposed to this in deceptively named legislation.

Well-defined parameters are in place for the enactment of legislation addressing abortion-related issues. The states must work within this framework. Nevertheless, this legislation attempts to demolish these parameters, and instead, rob the states of their constitutional authority. As such, this legislation must not be enacted.

Sincerely,

Randon J. Grau
State Representative

cc: Members of the United States Senate Judiciary Committee

CONCERNED WOMEN FOR AMERICA
LEGISLATIVE ACTION COMMITTEE

July 14, 2014

The Honorable
United States Senate
Washington, D.C. 20510

Dear Senator,

On behalf of our 500,000 members nationwide, Concerned Women for America Legislative Action Committee (CWALAC) wishes to express our opposition to S. 1696, the Women's Health Protection Act (WHPA). Despite its carefully chosen name, this bill, introduced by Sen. Blumenthal, would actually be a threat to women's health.

In 2011 alone, state lawmakers passed 92 abortion-restricting laws, including waiting periods, parental notification, clinic safety, ultrasound, and informed consent mandates.[1] The WHPA will deem most, if not all, of these previously enacted state laws illegal, overturning good abortion regulatory state legislation, all in the name of "women's health." These laws to protect women's health exist because of the grave concerns of state lawmakers.

History has shown us that when regulations on abortion clinics and doctors are dismissed, women are at a high risk of receiving poor care, being maimed, or even dying! The atrocities committed by abortion doctor Kermit Gosnell testify to this horrific truth. If abortion-restricting measures are stripped away and abortion providers are entrusted to set their own standards, women will be taken advantage of and a low standard in regards to their health and safety will become precedent. It is a dishearteningly ironic that the very name of this legislation stands in direct opposition to its inevitable outcomes.

It is frightening that the WHPA grants the abortion provider, not the states, the authority to set standards of care for their patients. This is deeply concerning as it demands that the interests of the *for-profit* abortion clinic doctors supersede that of their patients!

We urge you to boldly oppose S. 1696 in order to protect women. If this legislation is considered on the Senate floor, CWALAC will score against it and will include the vote in our annual scorecard.

Sincerely,

Penny Young Nance
Chief Executive Officer and President
Concerned Women for America Legislative Action Committee

[1] "States Enact Record Number of Abortion Restrictions in 2011," *Guttmacher Institute*. January 5, 2012 http://www.guttmacher.org/media/inthenews/print/2012/01/05/endofyear.html (accessed on July 8, 2014).

STATE OF INDIANA
OFFICE OF THE GOVERNOR
State House, Second Floor
Indianapolis, Indiana 46204

Michael R. Pence
Governor

July 21, 2014

United States Senate Committee on the Judiciary
Attn: Chairman Patrick Leahy and Ranking Member Chuck Grassley
224 Dirksen Senate Office Building
Washington, DC 20510

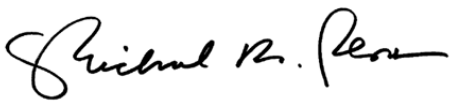
Dear Chairman Leahy and Ranking Member Grassley:

I am writing to express my strong opposition to S. 1696. This bill will infringe upon Indiana's ability to regulate the abortion industry, just as Indiana regulates many other medical procedures to help ensure the maximum safety for the patient.

Indiana has taken numerous steps to better inform women who may be considering the difficult decision of abortion, and we have put regulations in place to help protect their health and safety if that is the path they choose. If enacted, S. 1696 would invalidate many of these life-saving protections such as Indiana's restriction on the distribution of abortion inducing drugs via telemedicine, our informed consent laws, requirements for hospital admitting privileges, and numerous other safeguards that protect women.

I believe in the sanctity of every human life, and we must remain diligent in protecting the unborn children and women who are considering abortion. Indiana takes this responsibility seriously, and I urge this Committee to recognize the role of states in this instance by not moving forward with further consideration of S. 1696. Thank you for your consideration of our views on this measure.

Sincerely,



Michael R. Pence
Governor of Indiana

Cc: Senator Dan Coats, Senator Joe Donnelly

Statement of Americans United for Life
in opposition to S. 1696, the "Women's Health Protection Act"

before the United States Senate committee on the Judiciary
July 15, 2014

Americans United for Life (AUL) is a national public interest law firm with a practice in abortion and bioethics law. AUL attorneys are experts on constitutional law and abortion jurisprudence. After thoroughly reviewing S. 1696, which would invalidate most regulations of abortion and prevent future enactment of these laws, AUL appreciates this opportunity to submit a statement in opposition to the legislation.

I. Overview

S. 1696 attempts to override U.S. Supreme Court precedent and other legal standards and would permit abortion providers to set the standard of care for their patients with no oversight from the state and no effective remedies for the abortion industry's deficiencies and frequent malfeasance.

The enactment of S. 1696 would invalidate hundreds of abortion-related laws specifically including: abortion bans (*e.g.* gestational limits and sex-selection bans); clinic regulations; admitting privileges requirements; regulations on abortion-inducing drugs; reflection periods and other informed consent requirements; ultrasound requirements; and limitations on the use of state funds and facilities for abortion training.

In fact, S.1696 could be reasonably interpreted to invalidate virtually any type of state restriction or regulation on abortion and to endanger healthcare

freedom of conscience. It would also prohibit the future enactment of any of these laws.[1] S.1696 is the *Freedom of Choice Act* (FOCA) by another name.

II. The bill's findings and purpose sections are replete with inaccurate, misleading, and condescending language.

S. 1696 adopts the myth that abortion is good for women, asserting that abortion is "essential to women's health," and, condescendingly, that abortion is "central to women's ability to participate equally in the economic and social life of the United States."

The purpose of bill is given as "ensuring that abortion services will continue to be available and that abortion providers are not singled out for *medically unwarranted restrictions* that harm women by preventing them from *accessing* safe abortion services" (emphasis added). However, this purpose assumes that existing restrictions on abortion are "medically unwarranted," and that it is necessary to women's health to access abortion. Further, the purpose fails to acknowledge a state interest in protecting unborn children.

In reality, abortion poses serious risks to women's health. The short-term risks of abortion are undisputed, and include blood loss; blood clots; incomplete abortions, which occur when part of the unborn child or other products of pregnancy are not completely emptied from the uterus; infection, which includes pelvic inflammatory disease and infection caused by an incomplete abortion; and injury to the cervix and other organs, which includes cervical lacerations and incompetent cervix—a condition that affects subsequent pregnancies.[2]

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[1] The bill purports not to target some abortion laws such as laws related to "clinic violence," limits on insurance coverage for abortion, and parental involvement and argues that Congress should act separately on these. Notably, among the items not specifically precluded from possible invalidation are restrictions on government funding for abortion.

[2] *Significant Potential for Harm: Growing Medical Evidence of Abortion's Negative Impact on Women*, Dr. Byron C. Calhoun & Mailee R. Smith, esq., DEFENDING LIFE 2013: ROE AT 40 (Attachment).

The three most documented long-term risks of abortion include 1) an increased risk of pre-term birth in subsequent pregnancies; 2) an increased risk of placenta previa in subsequent pregnancies; and 3) an increased risk of breast cancer.[3] Further, numerous peer-reviewed studies have examined the effect abortion has on women's mental health, confirming that abortion "poses significant risks, including increased risk of depression, anxiety, and even suicide."[4] Health risks increase substantially with gestation.

Further, United States Supreme Court recognizes that the states have "a legitimate interest in seeing to it that abortion, like any other medical procedure, is performed under circumstances that insure maximum safety for the patient. This interest obviously extends at least to the performing physician and his staff, to the facilities involved, to the availability of after-care, and to adequate provision for any complication or emergency that might arise." *Roe v. Wade*, 410 U.S. 113, 150 (1973).

The Court has also repeatedly acknowledged that "abortion is inherently different from other medical procedures, because no other procedure involves the purposeful termination of a potential life." *Harris v. McRae*, 448 U.S. 297, 325 (1980). The state has an interest in protecting unborn children, as well as their mothers.

III. The bill's definitions are inadequate, unscientific, and overly broad.

S. 1696 fails to define two key terms, "*medically comparable procedure*" and "*health*," expansively defines "*abortion provider*," and improperly defines "*pregnancy*."

The term "*medically comparable procedure*" to abortion is used throughout the bill. However, as the Supreme Court and other federal courts have explicitly and repeatedly acknowledged, abortion is "unlike" any other medical procedure. Abortion is the only procedure that involves the

[3] Attachment 1, *supra*.
[4] Id.

intentional destruction of human life. It is "fraught with consequences" that do not exist with other "procedures." Thus, the Court has permitted abortion to be regulated differently from other (arguably) comparable (in terms of complexity and risk) procedures.

The bill does not define "*health*." Presumably then, the sponsors rely on the Supreme Court's broad *Doe* definition (*i.e.*, virtually anything can serve as a "health" justification for abortion), "cherry-picking" the parts of Supreme Court jurisprudence they like and ignoring what they do not (*e.g.*, *Gonzales v. Carhart*, and the Court's approval of many abortion regulations that this bill attempts to rescind).

"*Abortion provider*" is expansively defined to include physicians, certified nurse-midwives, nurse practitioners, and physician assistants who are "competent to perform abortions based on clinical training." This, coupled with other language in the bill, would seemingly target physician-only requirements for elimination.

Finally, "*pregnancy*" is defined as beginning at implantation, not fertilization. Human life begins at the moment of egg-sperm fusion, well before "implantation."

IV. The Bill's language is very broad and would likely be interpreted to prohibit most—if not all—existing state abortion regulations and restrictions.

The bill declares as "unlawful" and seeks to prohibit certain laws because the sponsors "single out the provision of abortion services for restrictions that are more burdensome than those restrictions imposed on medically comparable procedures, they do not significantly advance women's health or the safety of abortion services, and they make abortion services more difficult to access."

Without any qualification, S. 1696 would prohibit:

- Bans on abortion before fetal viability and bans on post-viability abortions performed for reasons of "health." This, of course, means that post-viability abortions would not be prohibited given the U.S. Supreme Court's broad definition of "health" in the context of abortion.
- Restrictions on an "immediate abortion" when a delay would pose a risk to a woman's health (see first bullet). This might endanger limitations the use of state facilities and personnel to perform abortions and freedom of conscience protections for certain providers and facilities.
- Restrictions on abortions "based on [the woman's] reasons or perceived reasons" for seeking an abortion or that require her to state those reasons. This would prohibit bans on sex-selective abortions and bans on abortions for genetic abnormalities.

Additionally, S. 1696 would specifically prohibit:

- Requirements that certain tests or medical procedures be performed in connection with an abortion. This would include ultrasound requirements and fetal heart tone auscultation.
- Limits on an abortion provider's ability to delegate tasks. This would likely implicate physician-only laws, informed consent counseling (in states that require the physician to personally do the counseling), and the like.
- Limitations on the administration of abortion-inducing drugs including prohibitions on the use of "telemedicine." Specifically, it precludes limiting or proscribing "an abortion provider's ability to provide abortion services via telemedicine." This provision is not specifically limited to chemical abortions.
- Abortion clinic regulations.
- Requirements that abortion providers have admitting privileges or transfer agreements.
- Reflection periods required by informed consent laws.

- Prohibitions and restrictions on medical training for abortion procedures which would implicate limits on the use of public funding and facilities for such training.

Importantly, S. 1696 also contains a broad, "catch-all" provision that would prohibit any "measure or action that restricts the provision of abortion services or the facilities that provide abortion services that is similar to any of the prohibited limitations or requirements" if "such measure or action singles out abortion services, makes abortion services more difficult to access and does not *significantly* advance women's health or the safety of abortion services" (emphasis added).

It is likely that this provision is intended to impact—and invalidate—virtually any abortion-related law, regulation, or restriction. Arguments that this bill is narrowly tailored to address a very specific subset of abortion regulations are inexplicable, given the breadth of this law.

V. S. 1696 Shifts the Legal Burden to States to Justify a Law.

It would be very easy for abortion providers to meet the *prima facie* standard required to maintain a legal challenge to a state abortion-related law under S. 1696. Importantly, the bill then explicitly—and improperly—shifts the burden to the states to justify the enactment of an abortion-related law, and does so by setting an extremely high standard for the states to meet in order to maintain/enforce an abortion regulation or restriction.

Under S. 1696, anyone challenging an abortion-related law simply has to show that the law "singles out the provision of abortion services or facilities in which abortion services are performed"; *or* the law "impedes women's access to abortion services." The bill lists several factors for the court to consider in determining whether a law "impedes" access including:

- Whether the law interferes with the abortion provider's ability to provide care and services according to his or her own good-

faith judgment. Thus, it allows abortion providers to set the standard of care—essentially, the "Gosnell prerogative."

- Whether the law would delay some women in obtaining abortions.
- Whether the law would directly or indirectly increase the costs of abortions (to either the provider or the women).
- Whether the law requires or is reasonably likely to require "a trip to the offices of the abortion provider that would not otherwise be required."
- Whether the law is likely to "decrease" the "availability of abortion services in the [S]tate."
- Whether the measure includes criminal or civil penalties that are not imposed on other health care professionals for comparable conduct or failures to act.
- The cumulative impact of the challenged law combined with existing requirements or restrictions applicable to abortion.

Once a *prima facie* case is made, the burden will shift to the state to show, by clear and convincing evidence, that the measure "significantly advances the safety of abortion services or the health of women"; *and* that the safety of abortion services or the health of women cannot be advanced by a less restrictive, alternative measure or action. In practice, this is a very high burden – one the dwarfs the *de minimus* burden on a party challenging the law.

Clearly, the "Women's Health Protection Act" is designed to ensure that virtually all abortion-related regulations and restrictions are summarily struck down.

Conclusion

S. 1696 would preempt and invalidate hundreds of democratically enacted laws—most at the state level—that were written to protect women and their unborn children. Further, it would prevent legislators from enacting more protections in the future. AUL opposes this bill and urges members of the Senate to vote against it. Thank you.