

Kansas House of Representatives



Representative Lance Kinzer
14th District

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LEGISLATORS RESPOND TO CARA VETO AND KDHE'S OBSTRUCTION OF A CRIMINAL PROSECUTION

OLATHE - The following statement is issued by Rep. Lance Kinzer, Rep. Anthony Brown, Rep. Steve Brunk, Rep. Owen Donohoe, Rep. Pat George, Rep. Mario Goico, Rep. Kasha Kelley, Rep. Mike Kiegerl, Rep. Mike O'Neal, Rep. Marc Rhoades, Rep. Arlen Siegfried, Senator Karin Brownlee, Sen. Tim Huelskamp, Senator Julia Lynn & Senator Peggy Palmer:

Governor Sebelius' explanation for her veto of House Substitute for Senate Bill 389, The Comprehensive Abortion Reform Act (CARA), misstates the clear meaning and effect of CARA and in so doing misleads the people of Kansas on an issue of vital importance. In particular the Governor indicated that the primary justification for her veto was her belief that, "SB 389 allows a variety of individuals to seek a court order preventing a woman from obtaining an abortion, even where it may be necessary to save her life." (See Governor's Veto Message).

In reality the injunctive relief provision of CARA only allows an injunction against a person who is reasonably believed to be acting in violation of K.S.A. 65-6703, the existing Kansas late term abortion law. With this in mind it is crucial to recognize that under CARA: **1) only an act that is already illegal under existing law (K.S.A. 65-6703) can be enjoined; 2) under existing Kansas law the requirements of K.S.A. 65-6703 do not apply in the case of a medical emergency; 3) A medical emergency is any condition which in "the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function."** (K.S.A. 65-6701).

As such it is simply disingenuous to argue, as the Governor has, that CARA could result in an abortion being prevented where necessary to save the life of a pregnant woman. It should further be noted that, using data provided by abortion providers themselves, in the ten years Kansas has kept such statistics, not one abortions of the nearly three thousand performed on viable late-term babies in this state, has been performed to prevent the death of the pregnant woman.

With all of the above in mind it is patently clear that the stated basis for the Governor's veto of CARA is a straw man that deserved to be knocked down. As such we urge our colleagues in both the House & Senate to join us in voting to override this veto.

Unfortunately, the Governor's veto of CARA is not the only irresponsible recent action by her administration relating to enforcement of existing late term abortion laws in Kansas. **In the ongoing case of State of Kansas vs. Planned Parenthood (Johnson County District Court case # 07CR2701)**

the Kansas Department of Health and Environment (KDHE) is reprising its role as guardian angel for the abortion industry in Kansas.

KDHE has consistently failed and refused to properly perform its obligations under K.S.A. 65-445 and K.S.A. 65-6703 to ensure that late term abortion providers report the medical reason and basis used to justify aborting viable unborn babies. KDHE's recalcitrance as to this issue has for many years served as a shield behind which late term abortionist can hide as well as keeping from the legislature vital information necessary to implement public policies to address the causes of and reduce the need for late-term abortions.

In the case of State v. Planned Parenthood KDHE has gone a step further, seeking to impede a criminal case by its refusal to honor a subpoena to authenticate late term abortion reports it had already produced as required by K.S.A. 65-445. It should be noted up front that the reports in question cannot by their very nature implicate the privacy of the patient given the fact that the reports do not reveal patient identity. KDHE is refusing to authenticate the documents in question on the grounds that they are "confidential." This argument completely ignores the fact that K.S.A. 65-445 specifically provides for the very records in question to be disclosed to the attorney general, "upon a showing that a reasonable cause exists to believe that a violation of this act has occurred. Any information disclosed to the attorney general pursuant to this subsection shall be used solely for the purposes of a disciplinary action or criminal proceeding."

The legislature has been absolutely clear in providing specific statutory authority for the use of the exact records in question in a criminal proceeding. The fact that KDHE is ignoring Kansas law in an effort to protect abortion providers sadly comes as no surprise given the agency's track record. **As members of the Kansas Legislature we urge KDHE to withdraw their motion to quash and to comply with their obligations as clearly defined by Kansas law.**