

Testimony of Sharon Toborg, Vermont Right to Life Committee Policy Analyst, concerning H.57

Presented to the Vermont Senate Health and Welfare Committee April 17, 2019

My name is Sharon Toborg and I am here today on behalf of the Vermont Right to Life Committee to testify on H.57.

The Committees considering this bill have focused largely on how abortion is currently practiced in this State. That is a mistake. What abortion providers say is current practice is different than what H. 57 would allow. This legislation would allow unlimited, unregulated abortion throughout pregnancy, and importantly, prohibits public entities from interfering with abortion.

While abortion advocates have stated repeatedly that abortions later in pregnancy are only done for reasons of fetal abnormality or maternal health, that is simply not true. One need only look at the debate over the Federal Partial-Birth Abortion Ban Act to know that is the case.

Partial-Birth Abortion (also called intact dilation and extraction, or D&X), its supporters said, was rarely used and only in the most extreme cases. Our doctor Governor Howard Dean was on the national news, saying there were at most a few hundred such procedures being performed annually. Until a newspaper reporter went into her local abortion facility and asked.

Ruth Padawer, a reporter for the Bergen NJ Record, interviewed physicians who used the method who reveal that at that one clinic alone, at least 1,500 partial-birth abortions were being performed each year, and only a “miniscule amount” were for medical reasons.

Ron Fitzsimmons, the executive director of the National Coalition of Abortion Providers, admits he “lied through his teeth” when he said on national television that partial-birth abortion was used rarely and only on women whose lives were in danger or cases of fetal anomaly.

Why the dishonesty? Because for the abortion rights movement, unrestricted abortion throughout pregnancy is not a philosophical problem, it is a public relations problem. Because when the truth comes out and the deception becomes clear, the people reject the unlimited abortion agenda. Congress voted to prohibit partial-birth abortion in 2003. The legislation was supported by both pro-life and pro-choice lawmakers. Even pro-choice Senator Patrick Leahy voted in favor of the ban. Planned Parenthood challenged the law, but it was upheld by the U.S. Supreme Court in 2007. [See *Gonzales v. Planned Parenthood Federation of America*](#)

But the partial-birth abortion ban act does not *prohibit* abortions later in pregnancy – it only prohibits one specific type of procedure. So the abortionists who perform later abortions just switched methods.

As legislators, you need to consider the full implications of H.57. There are those who would correctly point out that abortion has been legal throughout pregnancy in Vermont for decades, yet we do not have the later-in-pregnancy abortion clinics that some other states have. However, by adopting H.57, the state would not only be legally embracing unrestricted, unlimited, unregulated abortion throughout pregnancy, the public entities section of the bill would remove the significant regulatory barriers that an abortionist would currently

face if he chose to open a practice in Vermont.

H.57 declares that a “public entity” shall not restrict abortion access. What does that mean? An abortion facility could be exempted from the certificate of need process, Act 250, municipal zoning regulations. All those barriers that legitimate businesses face when trying to set up shop in Vermont could violate H. 57 if applied to an abortion business that wanted to come into our state. So when an abortionist like Kermit Gosnell, or James Pendergraft, or Robert Rho or Steven Brigham, decides to come to Vermont, the State will have no legal recourse to prevent it, monitor the practice, or intervene even if women are injured, or until they are killed. It is important to remember that the Medical Practice Board and the Office of Professional Regulation are public entities, and under H.57 would be prohibited from interfering with a providers’ choice to do abortions.

While most of the attention on H.57 thus far has focused on the legal status of abortion, the testimony taken in the House Judiciary Committee confirms that H.57 will make significant changes to Vermont law. It will protect abortion above childbirth, and will restrict pro-life free speech.

Section 9497 prohibits a public entity from restricting access to abortion. It does not, however, prohibit restricting access to childbirth. Under H.57, individuals, including abortion providers could have a right of action against the state, should they for example be denied a Certificate of Need for an abortion facility, or an across-the-board reduction in funding for health care programs reduces tax-payer funding for abortion. Providers and recipients of other medical services would not have such a right.

Because many of the terms in the Bill are vague and undefined, it is unknown the full extent of the impact. Testimony in the House Judiciary Committee confirms that schools, as public entities, would be affected by this legislation. It appears pro-abortion messages in our schools would be protected, while anti-abortion messages could be subject to restriction.

H.57 is not just a codification of current abortion practice in Vermont, it is far-reaching Bill intended to promote and protect abortion above other alternatives in our State.

In her testimony, Megan Gallagher, CEO of Planned Parenthood of Northern New England, encouraged passage of H.57 claiming it represents the people of Vermont’s position on abortion. In this Committee it has been said that unlimited abortion represents Vermont’s values. It does not. While most Vermonters consider themselves pro-choice, that does not mean that they support unrestricted abortion throughout all nine months of pregnancy for individuals of any age as H.57 proposes. In a poll commissioned by Vermont Right to Life in 2000, 59% of Vermonters called themselves pro-choice, but only 11% said abortion should always be legal. 72% of Vermonters said excluding abortion, it should be a crime in Vermont for someone to hurt or kill an unborn child in the womb either intentionally or through negligence. 72% also supported requiring a physician or clinic to notify a parent before performing an abortion on a daughter who is under 18 years of age. While this polling data is from some years ago, a May 2018 [Gallup Poll](#) also demonstrates that being pro-choice does not equal support for the full agenda of the abortion lobby. It found that 48% of Americans consider themselves pro-choice, but only 13% said abortion should be generally legal in the last three months of pregnancy. In 2011, the most recent year Gallup asked the question, 71% of respondents supported a law requiring women under 18

to get parental *consent* for any abortion even though 47% of respondents considered themselves pro-choice. H.57 would prohibit abortion regulations and fetal homicide laws favored by Vermonters

The abortion lobby calls nearly every regulation intended to protect the health and safety of women having abortions, interference with the right to choose. How would Vermont be able to protect women from abortion providers like Kermit Gosnell, who is currently in prison for killing two of his patients and murdering infants born alive? What tools would the State have to put someone like him out of Vermont? None.

Proponents of this Bill have stated that it is important for the Legislature to make it clear where they stand on abortion. I agree. When the roll is called on H.57, each and every Legislator will go on record as being for or against unrestricted abortion throughout pregnancy. For or against a parent's right to know. For or against placing abortion in a privileged place in our public policy. Will they declare by their votes that Vermont is indifferent to the health and safety of women seeking abortion? Indifferent as to whether a viable unborn baby is born or aborted, lives or dies? I hope not.