

DAVID S. BENTZ  
STATE REPRESENTATIVE  
18<sup>TH</sup> District



HOUSE OF REPRESENTATIVES  
STATE OF DELAWARE  
LEGISLATIVE HALL  
DOVER, DELAWARE 19901

COMMITTEES  
Health & Human Development,  
Chair  
Agriculture  
Energy  
Natural Resources  
Education  
Labor

### Health & Human Development Committee Meeting Minutes

5.17.17

Chair Bentz called the meeting to order at 3:22pm. Members present included Reps. Baumbach, Briggs-King, Heffernan, Hensley, Jaques, Kenton, Kowalko, Lynn, Matthews, Miro, Osienski, Williams and Yearick. For a list of guests present, please see the attendance list below.

Chair Bentz introduced **SS 1 for SB 5, AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE CODIFYING U.S. SUPREME COURT PRECEDENT RELATING TO THE TERMINATION OF PREGNANCY.**

Rep. Heffernan acknowledged the difficulty of the issue the bill aims to address, and then explained that the bill deletes language from the Delaware Code that has previously been ruled unconstitutional by the U.S. Supreme Court regarding termination of pregnancy. She then added that SS1 for SB 5 clarifies language regarding the termination of a pregnancy in the event of a fetal anomaly, and it includes existing language in the Delaware Code regarding informed consent and parental notification. Rep. Heffernan emphasized that the bill does not allow late-term abortion on-demand; it only permits constitutionally mandated access to abortion after viability if it is needed to safeguard the life or the health of the mother, or if the fetus is not likely to survive outside of the womb. She then added that the bill does not change criminal law, and is consistent with the state's current practice in law.

Rep. Yearick asked what prompted the proposal of the bill since the Code has remained unchanged for 47 years.

Rep. Heffernan responded that the law should have been changed many years ago.

Rep. Yearick then asked if other changes could be made to the Code to address issues related to a woman's health, specifically those related to the quality of care and counseling provided to women that undergo the termination process.

Rep. Heffernan responded that the bill is narrow in focus, and then reiterated that it deletes unconstitutional language from Delaware law.

Rep. Yearick stated that he wants to ensure women have the utmost protection when they undergo a procedure, and felt that an ultrasound is a standard procedure for a pregnant woman to monitor the health of the mother and child. He then asked if the sponsors of the bill would be open to an amendment that would require a pregnant woman, at any point in her pregnancy, to undergo a mandatory ultrasound in order to have an abortion.

Rep. Heffernan responded that she would not be open to the amendment, and then reiterated that the narrow scope of the bill aims to change the unconstitutional language. She added that there have been additional decisions by the U.S. Supreme Court regarding unnecessary medical procedures, and that an ultrasound does not fall under the scope of the proposed bill.

Rep. Yearick then asked if he could still propose the amendment, regardless of Rep. Heffernan's opposition.

Rep. Heffernan said that Rep. Yearick's amendment might be deemed out of the scope of the bill and unconstitutional.

Rep. Yearick inquired about the age restrictions for a termination of pregnancy.

Rep. Heffernan responded that the Parental Notice of Abortion Act requires 24-hour notice be given to the parent, guardian, or licensed mental health provider of an individual under the age of 16 prior to the start of a medical procedure or treatment. Rep. Heffernan then said that girls under the age of 16 also have the option to receive a waiver from Family Court if they feel parental notice would not be appropriate.

Rep. Yearick asked for clarification on the age of eligibility for an abortion.

Rep. Heffernan responded that current law requires that parental notice be given for individuals under the age of 16 in order to receive an abortion.

Rep. Yearick then asked if the parent or guardian has to approve of the action after receiving notice, or if the individual under the age of 16 could still go forth with the procedure.

Rep. Heffernan responded that the bill would not change the existing statute requiring 24-hour notice.

Rep. Yearick said that he finds it troubling that a 16-year-old could have an abortion while there are other legally imposed restrictions to limit their ability to vote and purchase alcohol.

Rep. Kowalko asked Rep. Heffernan if all of the proposed strikethroughs in SS 1 to SB 5 are in compliance with the Supreme Court decisions made in *Roe v. Wade* and *Doe v. Bolton*.

Rep. Heffernan confirmed that any language stricken by SS1 for SB 5 had been deemed unconstitutional by the U.S. Supreme Court decisions.

Rep. Kowalko then asked Rep. Heffernan to confirm that the bill does not add criteria or take away any constitutional guarantees that have already been decided by the U.S. Supreme Court.

Rep. Heffernan responded that the bill aims to only remove unconstitutional language from the Delaware code.

Rep. Kowalko then asked Rep. Heffernan to confirm that the Delaware Code referenced in the synopsis of the bill is correct. He also asked Rep. Heffernan to confirm that in order for any additional changes to be made to the bill, that the respective party would have to propose a separate amendment that addresses the provisions of the Delaware Code mentioned in this synopsis.

Rep. Heffernan called Mark Cutrona, from Legislative Council to answer Rep. Kowalko's question.

Rep. Kowalko asked Mr. Cutrona to verify that the effectiveness of the Parental Notice of Abortion Act, would not be changed by the proposed legislation.

Mr. Cutrona confirmed that the bill does not change the effectiveness of the Parental Notice of Abortion Act.

Rep. Kowalko then stated that if a legislator wanted to propose a change to the Parental Notice of Abortion Act it would need to be made in a separate bill because it would apply to a different part of the Code not addressed by the bill.

Mr. Cutrona agreed with Rep. Kowalko, adding that the Parental Notice of Abortion Act could not be amended based on the title of the bill.

Rep. Miro stated his opposition to abortion and to the bill. He felt that technological advances have made it possible for at-risk pregnancies to be carried to full term.

Rep. Kenton stated that he understood the intent of the Supreme Court ruling but did not support the bill.

Rep. Kowalko said that the bill does not make abortion legal or illegal; rather it ensures that the U.S. Constitution is enforceable in the state of Delaware. He then added that the bill simply reinforces a woman's right to choose.

Rep. Heffernan reiterated that SS 1 for SB 5 deletes language found unconstitutional by the U.S. Supreme Court on the termination of pregnancy; the bill is consistent with practicing law for 44 years.

Rep. Briggs-King stated that a woman is aware of the choices available to her prior to engaging in sexual conduct, and that one of those choices is to protect herself from pregnancy. She then said that abortion might not be fair to all of the parties involved. She then shared a story of her daughter-in-law who struggled to bring a child to term while in the hospital, and stated that she was amazed by the technology that monitored the baby's growth as it reacted to different circumstances. She concluded her remarks by stating that she does not support the bill as written.

Rep. Miro reiterated that current technology and modern-day medicines could improve the life of a fetus in the womb.

Rep. Heffernan clarified that the bill includes language that makes it illegal to terminate a pregnancy after the point of viability of the fetus. She added that a doctor, who has given consideration to existing medical technologies, determines the point of viability.

Rep. Yearick said that there are opportunities to find common ground around the minimum age requirement of 16. He referenced the documented cases of malpractice committed by Dr. Gosnell and added that abortions should be regulated and safe with the woman's health as the primary focus.

Rep. Heffernan stated that the bill does not condone malpractice procedures committed by Dr. Gosnell. She then clarified that the 24-hour parental notification requirement is current Delaware law, and the bill does not prompt change of the minimum age.

Rep. Yearick expressed his desire to collaborate with bill sponsors in order to find common ground on issues related to women's health care, fetal viability, and the minimum age required for parental notification.

Rep. Kowalko said current Delaware law requires a woman to give a doctor permission to terminate a pregnancy. He added that it is a woman's choice to undergo a procedure, and that these issues of women's health are not applicable to the proposed bill.

Chair Bentz opened the floor for public comment.

Reverend David Andrews said that women deserve the right to choose, and submitted written testimony in support of the bill.

Ms. Britanie Walls spoke in opposition to the bill, on the behalf of her friend that did not receive proper counseling prior to having an abortion. She said the staff and doctors of abortion clinics do not have time to offer alternative options to its patients, and that the proposed bill does not provide protections to women seeking an abortion.

Ms. Ruth Lytle-Barnaby, president and CEO of Planned Parenthood of Delaware, spoke in support of SS 1 for SB 5. She said that women choosing to have an abortion often make the decision with thoughtfulness and consciousness. She emphasized that abortion is a safe procedure, and reminded the committee that providers in Delaware must meet strict regulations and accreditation by external organizations.

Ms. Maria Poptanich voiced concerns about the transparency of the language used in the bill. She stated that the bill does not clarify how it addresses the Supreme Court decision in Roe v. Wade.

Ms. Linda Barnett stated that the American Association of University Women (AAUW) strongly supported the bill. She added that women should have choices over how their bodies are treated.

Ms. Lindsay Booth spoke in opposition of the bill. She shared the story of a friend that did not receive proper support and counseling while undergoing a medical abortion.

Ms. Jenny Proebstle of Generation Action at UD provided written testimony on behalf of a woman that endured an illegal abortion prior to the Roe v. Wade decision. She expressed her support for SS 1 for SB 5, and asked legislators to not take away a woman's right to a safe option.

Sen. Bryant Richardson spoke in opposition to the bill, stating it was a risk to women's rights. He suggested that SS1 to SB 5 be amended to protect women from unethical abortion practices, and protect the unborn by adopting a standard measure upon which a fetus may begin to feel pain.

Ms. Cheryl Siskin gave a testimony of her life after having an abortion in high school as well as the story of her cousin who had an illegal abortion that left her unable to have children. She expressed support for the bill, and said that women should have the right to choose when they have children.

Mr. William Gourley described the abortion procedure to emphasize his opposition to the bill. He said that SS 1 for SB 5 gives abortionists the ability to determine the point of viability, and asked the committee to protect the unborn.

Ms. Judith Calhoun spoke about her experiences while working as an escort at Planned Parenthood. She noted that most families that already have children choose to have an abortion because they are unable to raise another child. She then said that the state's laws needed to be clear enough to continue providing access to the resources available for families in need.

Ms. Rachelle Carmenuci opposed the bill and encouraged legislators to protect the gift of life.

Ms. Kathy Epler of Catholics for Choice submitted written testimony in support of the bill. She said most Catholics believe that abortion is a personal choice and that women should receive the privacy and protections needed to make their own decisions.

Ms. Jayne Mitchell spoke in opposition of the bill, stating that it puts women at risk. She felt that Planned Parenthood of Delaware did not provide women with proper options.

Mr. Hugh Gratz from the National Association of Social Workers supported the bill. He said that individuals should be able to make their own decisions without government interference, and that Roe v. Wade balanced the rights of women with the rights of the unborn.

Ms. Donna Latteri expressed opposition to the bill, stating that individuals profiting from abortions should not be the ones making choices. She added that abortion clinics target specific populations.

Ms. Roberta DeAngelis submitted written testimony on behalf of the American Civil Liberties Union (ACLU) of Delaware in support of SS 1 for SB 5. She emphasized the need to codify protections for women's rights.

Mr. Geoffrey Crawley spoke in opposition of the bill. He expressed concerns about the bill's ability to support, encourage, or mislead individuals to have an abortion. He then added that technology informs individuals about the development of children before they are born, and that they have a right to live.

Ms. Marian Palley stated that She Decides Delaware supported of SS1 for SB 5. She said the bill protects women through the constitutionally defined provisions and aligns Delaware law with federal law. She then added that health care decisions should be made by women in consultation with their doctors.

Ms. Nicole Theis of the Delaware Family Policy Council (DFPC) spoke in opposition to the bill. She stated that she sought counsel in regards to the language used in the bill, and determined that the bill ignores 44 years of jurisprudence regarding abortion.

Ms. Sandy Spence stated that the League of Women Voters of Delaware (LWV-DE) supported SS 1 for SB 5. She submitted written testimony to the committee.

Mr. Joe Fitzgerald submitted written testimony on behalf of the Catholic Diocese of Wilmington in opposition to SS 1 for SB 5.

Ms. Bess McAneny submitted written testimony in opposition to the bill. She stated that the language used in SS1 for SB 5 contained loophole language that would allow a woman to receive an abortion at any point in her pregnancy.

Ms. Moira Sheridan of Delaware Right to Life spoke in opposition to the bill. She felt that Delaware would become even more of an abortion destination state with passage of SS1 for SB 5.

Dr. Janis Tildon-Burton of the American Congress of Obstetricians and Gynecologists (ACOG) spoke in support of SS1 for SB 5. She stated that the bill neither expands nor restricts current best practices, and it does not allow health care providers to violate medical ethics and standards. Written testimony was also submitted to the committee.

Rep. Bentz requested a motion. A motion was made by Rep. Baumbach and seconded by Rep. Lynn to release SS 1 for SB 5 from committee; motion carried. Yes – 7 (Bentz, Baumbach, Heffernan, Lynn, Matthews, Osinski, Williams); No – 6 (Briggs-King, Hensley, Jaques, Kenton, Miro, Yearick); Absent – 1 (Kowalko).

SS 1 for SB 5 was reported out of committee with an F = 0, M = 8, U = 0 vote.

Chair Bentz adjourned the meeting at 5:09 p.m.

Respectfully submitted by:

Ashley Lewis

**Speaker List:**

Reverend David Andrews, Clergy for Choice  
Ms. Britanie Walls  
Ms. Ruth Lytle-Barnaby, Planned Parenthood  
Ms. Maria Poptanich  
Ms. Linda Barnett, American Association of University Women (AAUW)  
Ms. Lindsay Booth  
Ms. Jenny Proebstle, Generation Action  
Senator Bryant Richardson  
Ms. Cheryl Siskin  
Ms. Rachelle Carmenuci  
Ms. Judith Calhoun  
Mr. William Gourley  
Ms. Kathy Epler, Catholics for Choice  
Ms. Jayne Mitchell  
Mr. Hugh Gratz  
Ms. Donna Lattteri  
Ms. Roberta DeAngelis, American Civil Liberties Union (ACLU) of Delaware  
Mr. Geoffrey Crawley  
Ms. Marian Palley, She Decides Delaware  
Ms. Nicole Theis, Delaware Family Policy Council (DFPC)  
Ms. Sandy Spence, League of Women Voters  
Mr. Joe Fitzgerald, Catholic Diocese of Wilmington  
Ms. Bess McAneny  
Ms. Moira Sheridan, Delaware Right to Life  
Dr. Janis Tildan-Burton, American Congress of Obstetricians and Gynecologists (ACOG)

I am speaking in  
Support of

SB 5

~~Senate Bill 5~~

Roe V. Wade Codification

~~House Bill 11~~

House Committee

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May 17, 2017

Good afternoon, my name is the Rev. David Andrews and I am the rector of the Episcopal Church of Saints Andrew and Matthew in the city of Wilmington. The prophet Micah said to the people of Israel in the his sixth chapter: He has told you, O mortal, what is good; and what does the Lord require of you but to do justice, and to love kindness, and to walk humbly with your God? I come to you today and humbly ask that you give serious consideration to ensure that women in the state of Delaware be given the choice over their own bodies. As an Episcopal Priest I also serve on the board of Planned Parenthood of Delaware. I realize that not all clergy are of the same mind about a woman's right to choose but I firmly believe in the right for a woman to choose whether to have or not to have an abortion. As a person of faith I also know that this is a complicated and often difficult decision to make and as a clergy person my call is to listen to and to offer kindness and love rather than judgment to a woman who is struggling with one of the most intimate decisions that she will make in her life. For this decision to be taken away from her in my heart will only lead to a woman being forced to make a decision that will lead to her feeling regret and guilt. It is important that the state ~~continue to~~ provide women the choice without judgment and instead to listen to the struggle and the pain that so many women feel when deciding whether or not to end a pregnancy.

As a clergy person I also choose life; the life of the mother as well as the life of a child who is loved and nurtured and given every opportunity to thrive as they mature. To not allow a woman the right to choose may in the long run have adverse consequences on both the mother and the child. Thank you.

## 5/17/2017 Clergy For Choice- SB5

Dear Elected Officials of Delaware,

We, the undersigned clergy, value the religious liberty that upholds the human and constitutional rights of all people to make their own reproductive health decisions, without shame and stigma. Because of this we call on you to protect access to the full range of medical care a healthy family needs by passing legislation bringing Delaware law into compliance with federal Constitutional standards.

We cannot know the personal and medical circumstances behind a woman's decision to terminate a pregnancy. But we believe in compassion for the complex choices each individual must confront and the impact of these choices on families. The decision to become a parent, when and under what circumstances are deeply personal. We believe these matters are best left to a woman to determine for herself in partnership with her family, her doctor, and her faith.

We stand for a just society that treats every person equally regardless of sex, gender, and/or economic status. Delaware law must ensure all people have the medical, economic, and educational resources necessary for healthy families and communities to nurture children in peace and love.

We understand the important role our diverse faiths play in personal and public life. And we treasure the religious freedom guaranteed in America since our nation's founding. Good policy allows people of all religions to follow their own faiths and consciences in their own lives. In reproductive health, rights, and justice, we define religious liberty as the right of a woman to make thoughtful decisions in private consultation with her doctor, her family and her faith. The religious beliefs of others should not interfere.

Rev. David Andrews  
Rabbi Micah Becker-Klein  
Rev. Canon Lloyd S. Casson  
Rev. Roberta Finkelstein  
Rev. Paul Gennett Jr.  
Rev. Emily S. Gibson  
Rabbi Elisa F Koppel  
Rabbi Douglas E. Krantz

Rev. Sudie Niesen Thompson  
Rev. Sarah Nelson  
Rev. Gregory Pelley  
Rev. Cynthia Robinson  
Rabbi Yair D. Robinson  
Rev. Andrew L. Weber  
Rabbi Jeremy Winaker  
Rev. Ann Kathryne Urinoski

Senate Bill 5 Testimony

House Committee Hearing, May 17, 2017

Submitted by: Ruth Lytle-Barnaby, MSW

President and CEO of Planned Parenthood of Delaware

- ❖ I am Ruth Lytle-Barnaby, President and CEO of Planned Parenthood of Delaware, and I am here today in support of Senate Bill 5.
- ❖ The women who seek abortion at Planned Parenthood of Delaware are just like all of us, human. Humans who are making the best of circumstances not always within their control, making this decision with thoughtfulness and consciousness of everything and everyone else in their lives.
- ❖ An average woman has a reproductive lifecycle of approximately 30 years. Of that, 2.5 years she spends either trying to get pregnant or being pregnant. She spends 27.5 years trying *not* to be pregnant.
- ❖ One in three women in America has had an abortion at some point in her life.
- ❖ Abortion is a very safe procedure. In Delaware, abortion providers must meet strict regulations including accreditation by an external accrediting organization. PPDE maintains 3 separate accreditations, in addition to a working relationship with DHSS that includes routine on-site visits and record reviews.
- ❖ Whatever a woman's circumstance and whatever decision she may make about keeping or ending a pregnancy, the one thing she does not need is interference by the State.
- ❖ Delaware law currently requires parental involvement in the abortion decision if the patient is under 16 years of age. Senate Bill 5 does not change the Parental Notification of Abortion law, and that law is sufficient to protect young people in Delaware.
- ❖ Current law in Delaware, though not enforced, demeans the humanity of every woman by presuming to know better than she does what is in her best interests. In the current Code, abortion is a felony for a physician to provide, and a misdemeanor for the woman.
- ❖ It is time for Delaware's law to catch up to both established legal precedent and existing medical practice.
- ❖ Senate Bill 5 will modernize the Delaware code and protect the rights that all women have had for almost half a century. On behalf of the women we serve at Planned Parenthood, I ask you to support Senate Bill 5.

# Jenny Proebstle - Generation Action at UD

## Testimony

Ann is 68 and lives in Delaware. I met Ann when she came to share her story of having an abortion before *Roe v. Wade*'s ruling with Generation Action at UD.

Ann has asked me to tell her story today. She says: "I was one of the lucky ones. I survived; others did not. I tell my story for them, so no woman will ever have to repeat my journey."

I was a sophomore in college. I went to a party with Tim, a boy I was dating, and had some punch. I went upstairs and passed out on a bed. I woke up to Tim on top of me. I got up, went to the bathroom and saw that I was bleeding. I had been raped. It took me a long time to admit that to myself because I felt that I was responsible.

I ended up getting pregnant. Having the baby was not an option because of the shame it would have brought to my family and me. I knew that abortion was illegal, but I was determined and desperate to have one. I told my co-worker and she said she had a friend who could help. I called in sick one day and drove to see her. I went alone and I was scared.

The woman was kind and realized I was frightened. I got up on her kitchen table and she inserted a coat hanger into me. When she removed the coat hanger, I got dressed and drove home. I kept waiting for something to happen – to bleed, to have cramps. But nothing happened.

I attempted to have an abortion 4 more times before it was successful.

Tim told his friends I was seeking an abortion. One day, two police officers came to see me. They said they heard I was seeking an abortion. I lied and said it wasn't true. They asked me to call them if someone offering an abortion contacted me.

Tim found someone in Chicago. We drove to the meeting place at night. We were blindfolded, put in the backseat and driven to an undisclosed location. When our blindfolds were removed, we appeared to be in a doctor's office. I felt I was finally going to get help.

The two people appeared to be a doctor and nurse. They were compassionate, gentle and understanding. The man numbed my vaginal area and performed the abortion.

The next morning, I didn't feel any pain or cramping. I was tired, scared and also relieved. Maybe it was finally over.

Days later, I began hemorrhaging. My roommates took me to the health center. An ob-gyn examined me and said I needed an emergency D&C.

At the same time I felt shame, guilt and was fearful people would find out. What would they think of me? Would they think I was immoral or evil?

I went to see a Catholic priest. He told me I was not a bad person and I was forgiven. I tell my story now because I hope and pray that a woman's right to choose will never be taken away and in our environment today – it may be a possibility.

Please, do not allow our government to take away this choice. It is a personal decision, a decision not made lightly by any woman.

I hope Delaware's Representatives will vote yes on SB5 for the safety and health of Delaware women.

# CATHOLICS FOR CHOICE

IN GOOD CONSCIENCE

May 17, 2017

House Health & Human Development Committee  
Delaware State Legislature  
Legislative Ave, Dover, DE 19901

Re: SS 1 for SB 5, An Act to Codify U.S. Supreme Court Precedent Relating to the  
Termination of Pregnancy

Dear Chairman Bentz, Vice Chair Heffernan and Members of the Committee,

As constituents and Catholics, we write today to urge this committee to support SS 1 for SB 5, an act that would protect a woman's decision about pregnancy by codifying into state law the US Supreme Court precedent from *Roe v. Wade*. This measure simply makes Delaware law, practiced in the state for the past 43 years, consistent with that right protected by the US Constitution.

As Catholics, we support this measure because of our utmost reverence for individual conscience. We are called upon by our faith to follow our conscience in all matters of moral decision making and to respect the rights of others to do the same. And to our minds, this includes a woman's right to make decisions about her reproductive healthcare. Catholic respect for conscience leads us to respect and support the conscience-based decisions that each person makes, regardless of how we might make those decisions ourselves. A majority of the nearly 250,000 Catholics in Delaware believe that abortion should be legal in the United States, and six in ten Catholics nationwide believe abortion to be a personal moral choice.<sup>1</sup> As Catholics, we trust women and believe they and their families deserve respect for their personal, private healthcare decisions.

Our Catholic social tradition also compels us to advocate for the poor and marginalized. We know that policies that restrict access to reproductive healthcare disproportionately harm those who struggle the most to make ends meet in both urban and rural areas. Out of respect for the dignity of all people, including the poorest and most marginalized, Catholics support access to the full range of reproductive healthcare services, including abortion. Supporting this proposal affirms that all residents of Delaware, no matter their income or zip code, will have their personal medical decisions protected.

## **PRESIDENT**

Jon O'Brien

## **BOARD OF DIRECTORS**

Daniel A. Dombrowski, *Chair*

Dawne Deppe

Janet Gallagher

Anka Grzywacz

John Lesch

Kate Ott

Anthony Padovano

Victor Reyes

Denise Shannon

Rosemary Radford Ruether,  
*Emerita*

We are both of an age that we remember the time before abortion was legal and were acutely aware of the large numbers of women, mostly low-income women, who were scarred for life or even died while having illegal abortions. Women will always have deeply personal decisions for seeking an abortion either in their own home state or a neighboring state. In our minds, the kind, compassionate and loving thing to do is to ensure there are clean, legal facilities in which a licensed medical doctor can perform these abortions. If legal clarity isn't established today, Delaware could end up being one of those states that drives poor and marginalized women and, yes girls, to backroom establishments that put their lives in jeopardy. That is not the Catholicism we know and love. You have no doubt heard from the Diocese of Wilmington or other organizations that claim to speak on behalf of all Catholics regarding the proposal before you today. We hope we have made clear that their extreme position on this issue does not reflect our beliefs or the beliefs of the majority of Catholics in Delaware and across the country. We wholeheartedly support Delaware's law being updated and modernized so that it is in compliance with the US Constitution.

We implore our lawmakers to not bow to the demands of the vocal minority who want to legislate and impose their personal beliefs about abortion on the entire population. Rather, our hope is that this Committee and all of Delaware's elected officials will recognize and respect the Constitutional right of women and their families to make moral decisions about their own lives and bodies based on personal beliefs, regardless of who or where they worship. Passing SS 1 for SB 5 accomplishes that. Thank you.

Respectfully,

Marcia Pappas Devaney  
Catholic for Choice  
Rehoboth Beach, Delaware

MaryAnn Fiske  
Catholic for Choice  
Rehoboth Beach, Delaware

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<sup>1</sup> Belden Russonello Strategists, "Survey of Catholic Likely Voters Conducted for Catholics for Choice," September 2016.

Hello,

Thank you for your willingness to hear my comments of support for the bill under consideration, to change the current Delaware statute to conform to the United States Supreme Court's decision on *Roe vs Wade* and subsequent cases, establishing that access to abortion is a constitutional right and that states cannot prohibit abortion prior to viability.

I am a retired, licensed clinical social worker with almost 45 years of experience. I am a career-long member of the National Association of Social Workers. NASW is the largest membership organization of professional social workers in the world with over 132,000 members.

The *NASW Code of Ethics* guides social workers to "promote clients' self-determination." NASW's policy statement, *Family Planning and Reproductive Health* states, "*Self-determination means that without government interference, people can make their own decisions about sexuality and reproduction. It requires working toward safe, legal, and accessible reproductive health care services, including abortion services, for everyone.*" (NASW, 2006).

This means that I have an ethical responsibility to advocate for these rights for women and strongly support the principle that no person or institution should force a woman, against her will, to give birth.

I fulfill this mandate as a volunteer for Planned Parenthood of Delaware, escorting patients and their family members past protestors, in order to access services. Planned Parenthood provides a range of reproductive healthcare including abortion and, through education and family planning, prevents more crisis, unwanted pregnancies than probably any other institution in this country. They respect a woman's right to self-determination, to find her own wisdom and spiritual truth within the context of established law..

We live in a pluralistic society, reflecting a cross section of social and moral beliefs. Life is sacred, and, contrary to historical traditions in many cultures, that sacredness includes women as being worthy of self determination. All human beings, including elected officials, are sometimes required to balance the rights of different individuals. I believe this was the balance that our Supreme Court reached in *Roe vs. Wade* and subsequent cases, and I urge you to respect that by conforming to the United States Supreme Court's decision.

Thank you for your consideration of my testimony.

James Hugh Gratz MSW, LCSW  
Greenville, DE  
5/17/17

May 17, 2017

Good afternoon. I am Kathleen MacRae, the executive director of the ACLU of Delaware. I'm here today in support of SS 1 for Senate Bill 5.

It has been 43 years, since the United States Supreme Court ruled in *Roe v. Wade* with a 7 to 2 vote and established the right of a woman to decide when it was best for her to become a parent. In 1973, that decision made abortion available in Delaware by overriding a Delaware statute that was passed in 1953 which severely limited and criminalized a woman's access to abortion care. It is time for us to catch up with established law and medical practice, and codify the protection for Delaware women that has long been guaranteed by the courts.

It is important to remember that the US Supreme Court has decided in favor of a woman's access to abortion care five times since 1973, most recently in the June 2016 decision in *Whole Women's Health*.

In 1992, the court said—"Our law affords constitutional protection to personal decisions relating to marriage, procreation, contraception, family relationships, child rearing, and education. [...] These matters, involving the most intimate and personal choices a person may make in a lifetime, choices central to personal dignity and autonomy, are central to the liberty protected by the Fourteenth Amendment."

I urge members of the committee to vote in support of SS 1 for Senate Bill 5.

Marian Lief Palley, Ph.D.

Public Affairs Committee Chair and Board of Directors member, Planned Parenthood of Delaware

- ❖ I am here today as a representative of She Decides Delaware, a coalition of 16 organizations that support SB5.
- ❖ I would like to take this opportunity to summarize the points made regarding this legislation by the people who have testified about the merits of this legislation.
- ❖ I have been a member of the Board of Directors of Planned Parenthood of Delaware for more than ten years, and have chaired the Public Affairs Committee for three years.
- ❖ Senate Bill 5 will remove the unconstitutional language in Delaware law that has remained since 1973 when the Supreme Court overturned an abortion ban with the *Roe v. Wade* decision.
- ❖ It will protect the health of women by protecting constitutionally affirmed access to a safe and legal medical procedure.
- ❖ The *Roe* decision has been the law of the US for 44 years and this bill will make the necessary changes to align Delaware law with federal law.
- ❖ The law supports the patient/physician relationship and decision making free of government intervention.
- ❖ Like other medical procedures, the Board of Medical Licensure and Discipline carefully regulate the provision of abortion; further, as an invasive procedure, facilities that provide abortion are required to be accredited (Planned Parenthood has three separate accrediting bodies) as part of DHSS regulation.
- ❖ Abortions that are outside of regulated medical procedures remain illegal.
- ❖ With Senate Bill 5, Delaware will decide publicly and unequivocally that the health of women is our first priority, and that health care decisions should not be made by politicians but by women in consultation with their doctor.



## **The League of Women Voters of Delaware Supports SB 5.**

SB 5 eliminates language in the Delaware Code that fails to comply with the U.S. Supreme Court's decision in *Roe v Wade*.

This support is based on our national position, adopted in 1983, that public policy in a pluralistic society such as ours must affirm the constitutional right of privacy of the individual to make reproductive choices.

In plain language, we support the provisions of *Roe v Wade*. We believe this should be a private decision and the government should not be involved.

## **HOUSE HEARING SB5**

**Thanks to the Committee**

**I am Bess McAneny-President of Delaware Nurses for Life since 1984 and a nurse of 51 years. Conforming to an antiquated Federal decision is an ill informed and negligent by today's standard for health care. Even a 20 week abortion ban passed the US House last week. I want to establish some credibility by telling you that I served on Governor Minner's Task Force on Infant Mortality on the Prevention Committee. I brought to that table the research that shows the risk factor of abortion to a premature death. I continue to exhibit now 11 years at every DE Thrives annual meeting to educate other health professionals about risk factors. The risks are related to second trimester surgical abortions which require the use of cutting edge instrumentation and the possible introduction of disease causing pathogens into the vaginal canal. Additional abortions further raise the risk. This damage to the cervix leaves it vulnerable to weakness and a possible very premature birth. In addition to the HPV erosion of the cervix we have created a dismal future for our babies. Dr. David Paul is the CHS neonatal expert. Great care has been taken to discuss the well being of the health of a mother yet when it comes to abortion there are no fetal medicine experts, safeguards, no task forces, no informed consent, no waiting periods, no follow ups, and no definition of terms in this Bill. The risk is discussed in the Public health Nursing Textbook for UD by Barbara Sekleman and numerous other research studies. Let me assure you SB5 language is so general that it allows for an abortion all 9 months through "exceptions" loopholes language.**

**There is no one in this room who can tell us with certainty what "HEALTH" means. The definition of '73 has been challenged for 60 years. So we are giving that responsibility to an abortion doctor doing 40-50 a day who has less than 10 minutes with an often sedated patient who has no medical report from the primary doctor or 24 hours to review all health data. Where is 2017 understanding that includes 'support from the community to maintain health?'"**

**No definition exists with certainty for the "LIFE" of the mother. Since women walking into the abortion clinic are all alive at that point. Simply being told that "you could die" is a relative statement and becomes real only when presented with certain evidence based symptoms. By 2017 a high risk pregnancy is a specialty with expert care allowing even a 19 week old fetus to survive from Newark one month. It is not in the hands of an abortionist.**

**For Infant Anomalies genetic testing along with gestational ultrasounds along with neonatal specialty and a diverse health team of experts work with these mothers to determine accurate diagnoses. By no means should we place an abortionist in this capacity.**

*Bess McCreary RN  
D.C. Nurses for Life*

# ACOG

THE AMERICAN CONGRESS OF  
OBSTETRICIANS AND GYNECOLOGISTS

## DELAWARE SECTION

May 3, 2017

Senator Bryan Townsend  
411 Legislative Ave  
Dover, DE 19901

### SECTION OFFICERS

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VICE CHAIR

MEGAN HAYES  
EXECUTIVE DIRECTOR

## Position Statement: Delaware Senate Bill 5 of 2017 – SUPPORT

Senator Townsend,

The Delaware Section of the American Congress of Obstetricians and Gynecologists (ACOG) supports Senate Bill 5 and the codification of the existing legal structure that physicians have followed since the Supreme Court decision *Roe v. Wade*.

Importantly, this legislation intentionally neither expands nor restricts the current best practices. As with all medical matters, this very sensitive one must remain within the relationship of consultation between a woman and her physician.

In those discussions and into subsequent care, safety remains a priority. This bill does not allow healthcare providers to violate medical ethics and standards. ACOG opposes the termination of a healthy pregnancy that has attained viability in a healthy woman. As recognized and accepted by ACOG, viability is the capacity for sustained survival outside of the body. This legislation ensures physicians have the ability to provide the care that is compassionate and medically-appropriate under the circumstances, according to their years of training in what is medically and ethically appropriate.

The American Congress of Obstetricians and Gynecologists is dedicated to women's health and safety through education, practice, and research. An important focus of our work is the development and recommendation of practice guidelines for the health care of women. A critical component to this goal is consistency in our laws. Currently, the Delaware Code is out of date and simply inconsistent with the regulatory and legal framework that exists, rendering the Code inadequate at best and dangerously inaccurate at worst. Bringing the Code up to date is never a welcome task and the time is never perfect, we are grateful for this legislation which does so.

Sincerely,



Janice Tildon-Burton, M.D., F.A.C.O.G.  
Chair, Delaware Section  
American Congress of Obstetricians and Gynecologist

**Rev. Robert P. Hall, OSL**  
**112 North Road**  
**Wilmington, Delaware 19809**

Hon. Debra Heffernan  
Delaware House of Representatives  
Legislative Hall  
Dover, Delaware 19904

Dear Ms. Heffernan:

I want to thank you for your sponsorship of Senate Bill 5 and to express my hope that it is passed by our General Assembly.

I sincerely believe that no-one is “pro-abortion,” despite the accusations of those who respond angrily to this legislation. It is my fervent hope that the incidence of this procedure becomes more and more rare. However, I am just as fervently convinced that criminalizing abortion is not helpful. A wise gentleman, now deceased, who was a Republican of the “old school” once told me that changing the law in such matters rarely worked; it is the heart that must be changed. And the criminal justice system is not the venue for such change to occur.

As you know, I am an active United Methodist clergyperson. Our Church, the largest Christian denomination in Delaware, frankly discourages abortion and can by no means be thought permissive on this matter. However, we also state clearly, “We recognize tragic conflicts of life with life that may justify abortion, and in such cases we support the legal option of abortion under proper medical procedures by certified medical providers.” Let us have clinically sound, evidence-based, culturally sensitive pregnancy prevention services. But let us not compound the “tragic conflicts” referenced by my Church with threats of sanction.

Thank you for being willing to address what is a difficult issue.

Very truly yours,

Rev. Robert P. Hall

May 17, 2017

**VIA E-MAIL AND USPS FIRST CLASS**

David Bentz  
Chairperson, Health & Human Development Committee  
Delaware House of Representatives  
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Representative Valerie Longhurst  
Majority Leader  
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Representative Debra Heffernan  
Delaware House of Representatives  
411 Legislative Avenue  
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Debra.Heffernan@state.de.us

**RE: SS 1 for Senate Bill 5 / *An Act to Amend Title 24 of the Delaware Code Codifying U.S. Supreme Court Precedent Relating to the Termination of Pregnancy***

Dear Representatives Bentz, Longhurst and Heffernan:

We are Delaware lawyers and write in support of Senate Substitute 1 for Senate Bill 5 ("SB 5").

From our perspective, the passage of SB 5 is not a pro-life/pro-choice issue. It is a question of whether Delaware law accurately reflects the law of the land and protects the constitutional rights of its citizens. It is also a question of whether Delaware provides equal access to all women in this State to medical services and care to which they are constitutionally entitled.

In 1973, the United States Supreme Court held that the right to an abortion, a medical service for women, is bound up in the constitutionally guaranteed right to

privacy, a right held by all citizens of this country. *Roe v. Wade*, 410 U.S. 113 (1973). The United States Supreme Court held that this is a constitutional right to which all women are entitled. The law of our State should reflect that. Passage of SB 5 ensures that Delaware law reflects the scope of the constitutional right articulated by the United States Supreme Court.

We understand that some suggest that passage of SB 5 is “merely symbolic” since the Attorney General issued an opinion in 1973 stating that Delaware abortion laws are invalid to the extent that they conflict with *Roe v. Wade*, 410 U.S. 113 (1973) and *Doe v. Bolton*, 410 U.S. 179 (1973), and declared that violations of these provisions will not be prosecuted. The lack of criminal prosecution does not make the passage of SB 5 “merely symbolic.” Passing SB 5 means that women's rights to medical services are protected in Delaware as they are under the United States Constitution. It does not mean that women who do not want the permitted services must have them. Rather, it means that women who desire or need services which they are constitutionally guaranteed under the United States Constitution are able to obtain them without legal impediment. To us, that is not merely symbolic.

It is our sincere hope that SB 5 is passed into law so that the constitutional rights of all women in Delaware are acknowledged and protected.

Sincerely,

/s/ Kate Harmon, Esquire  
/s/ Kathleen A. Murphy, Esquire  
/s/ Sarah A. Fruehauf, Esquire  
/s/ Mary Dugan, Esquire  
/s/ Sherine Bediako, Esquire  
/s/ Allurie Kephart, Esquire  
/s/ Patricia Enerio, Esquire  
/s/ Mary B. Hickok, Esquire  
/s/ Raeann Warner, Esquire  
/s/ Brenda James-Roberts, Esquire  
/s/ Beverly J. Wik, Esquire  
/s/ Melanie K. Sharp, Esquire  
/s/ Karen Jacobs, Esquire  
/s/ Sarah A. Clark, Esquire

/s/ Kelley Huff, Esquire  
/s/ Susan C. Del Pesco, Esquire  
/s/ Tara L. Lattomus, Esquire  
/s/ Casey Kraning-Rush, Esquire  
/s/ Dawn Kurtz Crompton, Esquire  
/s/ Sarah E. Hickie, Esquire  
/s/ Leanne C. McGrory, Esquire  
/s/ Stacey N. Smith, Esquire  
/s/ Lisa Coggins, Esquire  
/s/ Chaney Hall, Esquire  
/s/ Lori W. Will, Esquire  
/s/ Noelle B. Torrice, Esquire  
/s/ Jill Spevack Di Scuillo, Esquire  
/s/ Sarah E. Pierce, Esquire

Representatives Bentz, Longhurst and Heffernan  
May 17, 2017  
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*/s/ Shari Lumb Milewski, Esquire*  
*/s/ Kristen Swift, Esquire*  
*/s/ Joan Schneikart, Esquire*

*/s/ Sarah Ennis, Esquire*  
*/s/ Julie M. O'Dell, Esquire*  
*/s/ Jane Doe, Esquire*