



**WRITTEN TESTIMONY OF ERICA STEINMILLER-PERDOMO
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ON KANSAS HOUSE BILL 2749 (2024)
BEFORE THE COMMITTEE ON HEALTH AND HUMAN SERVICES
FEBRUARY 14, 2024**

Chairwoman Landwehr and distinguished members of the Committee, I am Erica Steinmiller-Perdomo, Legal Counsel with Alliance Defending Freedom. I am testifying as a constitutional expert on Kansas House Bill (HB) 2749, which amends K.S.A. 65-445, Kansas’s abortion reporting law, to require medical care facilities and licensed providers to report the reasons for each abortion performed at such facility or by such provider biannually to the secretary of health and environment.

Identifying the reasons women seek abortions will aid Kansas in developing policy initiatives to better support women and families. HB 2749 does not alter or infringe on the right of a woman to obtain an abortion. The bill simply requires the collection of demographic and statistical information to promote better maternal health outcomes for women. HB 2749 is rationally related to Kansas’s legitimate interests in maternal health and safety.

Specifically, HB 2749 requires reporting on:

- Demographic information, including the age of the pregnant woman or girl, the state or country of residence, marital status, and education information.
- The method by which the abortion was performed.

- Whether prior to the abortion the pregnant woman or girl received services, financial assistance, or other assistance from a nonprofit organization that supports pregnant women.
- Whether the pregnant woman or girl was a victim of domestic violence, or physical, mental, or emotional abuse or neglect, and whether she is living in a place she considers to be safe, stable, and affordable.
- The reasons the woman or girl sought an abortion.

HB 2749 ensures confidentiality for women and girls who obtain abortions, as well as for the medical care facilities and licensed providers reporting on abortions.

Kansas's Interest in Protecting Maternal Health and Safety

Kansas has “legitimate interests” in “the protection of maternal health and safety.” *Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215, 301 (2022). The Supreme Court has long recognized that “the regulation of health and safety matters is primarily, and historically, a matter of local concern.” *Hillsborough Cnty. v. Automated Med. Laboratories*, 471 U.S. 707, 719 (1985). These historic state police powers include the authority to regulate abortion. *Dobbs*, 597 U.S. at 301. HB 2749’s abortion reporting amendment thus falls squarely within the state’s purview.

HB 2749 furthers Kansas’s interest in protecting maternal health and safety by gathering information about abortion to be used for statistical review and analysis. Abortion “record keeping and reporting provisions that are reasonably directed to the preservation of maternal health and that properly respect a patient’s confidentiality and privacy,” *Planned Parenthood v. Danforth*, 428 U.S. 80 at 52, 79-81 (1976), are essential to promoting maternal health and safety and contribute to medical and public health knowledge. Current abortion data is inaccurate and often

misleading because of deficient state and federal reporting systems. The inadequate abortion reporting systems leave the true dangers of abortion under-reported and often ignored.¹

Accurate abortion reporting advances public health and safety by enabling responsible medical and public-health decision-making and supporting the best health outcomes for women and their children. Such information could also aid in assessing the need for and establishing supportive programs for women and their children.

HB 2749 Is Rationally Related to Kansas’s Maternal Health and Safety Interests

HB 2749 passes constitutional muster because it is rationally related to advancing Kansas’s interest in maternal health and safety. “[T]he rational basis standard ... requires only that the legislative enactment bear some rational relationship to a legitimate state interest.” *Hodes & Nauser, MDs, P.A. v. Schmidt*, 440 P.3d 461, 493 (Kan. 2019). And a law regulating abortion, like other health and welfare laws, are entitled to a “strong presumption of validity.” *Heller v. Doe*, 509 U.S. 312, 319 (1993). It must be sustained if there is a rational basis on which the legislature could have thought that it would serve legitimate state interests. *Dobbs*, 597 U.S. at 301.

HB 2749 requires reporting on the most important factors for which a woman seeks to have an abortion, as well as other demographic and statistical information.

¹ “[T]here are few surgical procedures given so little attention and so underrated in its potential hazard as abortion.” Warren M. Hern, ABORTION PRACTICE 101 (1990).

Such a comprehensive state abortion reporting system is necessary to adequately safeguard maternal health. Comprehensive abortion reporting will provide complete and reliable data on abortion to the medical community, to federal and state public health officials, and to the general public. Further, identifying the reasons women seek abortions will aid Kansas in developing policy initiatives to better support women and families.

HB 2749 does not alter or infringe on the right of a woman to obtain an abortion. Rather, the bill is concerned with collecting statistical information to promote better maternal health outcomes for women. The abortion reporting requirement is rationally related to and promotes Kansas's legitimate interests in maternal health and safety.

HB 2749 Could Be Strengthened by Requiring Reporting of Complications

Kansas's abortion reporting system could be strengthened by requiring reporting of complications and injuries resulting from abortion. I would strongly urge that HB 2749 be amended to require reporting of abortion complications. It is essential that the medical and public health communities have access to accurate information on abortion and its potential risks and complications, which are often inaccurately reported. As a result, the injuries to countless women who have had abortions are effectively being swept under the rug.

Abortion can cause short-term and long-term physical and psychological complications for women. Indeed, the majority of women who have abortions go on

to suffer emotional and psychological pain, including suicidal ideations.² According to the FDA, roughly one in 25 women who have chemical abortions will require emergency medical attention for serious, even life-threatening, complications such as severe bleeding, life-threatening infections, or sepsis.³ Moreover, in abortions performed after 15 weeks, women face a higher risk of needing a hysterectomy, other reparative surgery, or a blood transfusion.

The current reporting mechanisms at both the state and federal level are inadequate to assess the frequency or severity of abortion complications.⁴ Kansas's interest in maternal health and safety would be well served by requiring comprehensive reporting on abortion complications.

HB 2749's abortion reporting amendment is well-supported by legitimate state interests and is rationally related to effectuate those interests. For that reason, it is constitutional under both federal and state law.

² Priscilla K. Coleman, *Abortion and mental health: quantitative synthesis and analysis of research published 1995-2009*. *British J. Psychiatry* (Sept. 2011), <https://pubmed.ncbi.nlm.nih.gov/21881096/>.

³ U.S. Food and Drug Administration, Medication Guide for MIFEPREX® (mifepristone) tablets, for oral use (Jan. 2023), https://www.accessdata.fda.gov/drugsatfda_docs/label/2023/020687Orig1s025Lbl.pdf.

⁴ See Kathi A. Aultman et al., *Deaths and Severe Adverse Events after the use of Mifepristone as an Abortifacient from September 2000 to February 2019*, *Issues Law & Med.* (Spring.2021), <https://pubmed.ncbi.nlm.nih.gov/33939340/>; Christiana A. Cirucci et al., *Mifepristone Adverse Events Identified by Planned Parenthood in 2009 and 2010 Compared to Those in the FDA Adverse Event Reporting System and Those Obtained Through the Freedom of Information Act*, *Health Servs. Res. & Manag. Epidemiology* (Dec. 2021), <https://pubmed.ncbi.nlm.nih.gov/34993274/>.