

WOMEN'S LAW PROJECT

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TESTIMONY IN SUPPORT OF H.B. 1658
ABORTION VIOLENCE PREVENTION ACT
BEFORE THE
HOUSE OF REPRESENTATIVES OF PENNSYLVANIA
COMMITTEE ON THE JUDICIARY

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BY

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I am very pleased to be here today to testify on behalf of the Women's Law Project in support of the Abortion Violence Prevention Act. Violence against reproductive health care providers and women seeking abortions is a subject of profound importance to the lives, liberty and safety of women in Pennsylvania. This proposed legislation represents an important and effective step towards combatting such violence and harassment in this Commonwealth.

I am the Managing Attorney of the Women's Law Project, a nonprofit public interest law center dedicated to advancing the legal and economic status of women and their families through public education, advocacy, counseling and litigation. During the past 17 years, the Women's Law Project has played a leading role in Pennsylvania and nationally in the struggle to defend the right of women to choose whether to terminate or continue a pregnancy. The Women's Law Project believes that the right to reproductive freedom is a central and fundamental component of a woman's right to equality in society and law. We include in our definition of that right, the right to make informed choices about reproduction free of violence, harassment and coercion. The Women's Law Project has brought legal challenges to the harassing and often brutal tactics which anti-abortion groups have been employing against women seeking reproductive health services and providers of such services in the Philadelphia area. I am lead counsel in Roe v. Operation, a lawsuit filed in 1988 in the United States District Court for the Eastern District of Pennsylvania. In November 1990, the United States Court of

Appeals for the Third Circuit upheld a permanent civil injunction entered in that lawsuit, prohibiting blockading, harassment and trespassing at reproductive health care providers in the Philadelphia area.¹ The Third Circuit held that harassment and blockades by anti-choice demonstrators violate state trespass law and state law prohibiting intentional interference with contract.

Like their counterparts across the nation, Pennsylvania abortion providers and their patients have experienced vicious violence and harassment by opponents of abortion.² Attacks on health clinics which provide abortions as well as other reproductive health care services, have ranged from arson and bombings to harassment and assault of clinic employees and patients. Other specific tactics include invading clinics, blocking entrances, making threatening phone calls to clinic employees, videotaping and photographing patients as they attempt to enter the clinics, shoving patients and employees, flinging plastic fetuses and photographs of fetuses in the faces of patients trying to enter clinics, and screaming abusive epithets at patients.³

1 Roe v. Operation Rescue, No.88-5157, slip.op.(E.D.Pa. Dec. 5, 1988), aff'd, Nos. 89-1011, 89-1428, 89-1471, slip.op (3d.Cir. Nov. 26, 1990).

2 Between 1977 and 1991, abortion providers reported more than 850 acts of violence including bombings, arson, death threats, and kidnappings by opponents of abortion. See National Abortion Federation, Incidents of Violence and Disruption Against Abortion Providers (Wash. D.C. 1992)

3 National Abortion Federation, Incidents of Violence and Disruption Against Abortion Providers, supra note 1 at 2; Clara Bell DuVall Education Fund, Fact Sheet: Harassment and Violence Against Pennsylvania Abortion Providers.

As you will no doubt hear from other witnesses today, reproductive health care providers in Pittsburgh have experienced serious acts of criminal violence. In 1989, the Allegheny Reproductive Health Center in Pittsburgh was firebombed. Although, fortunately, no one sustained personal injury, the facility itself sustained substantial damages, which cost approximately \$20,000 to repair.⁴ In 1990, the same clinic suffered extensive roof and water damage resulting in repair costs in excess of \$50,000.⁵ In September 1989, five opponents of abortion forced their way into the offices of Women's Health Services in Pittsburgh and dumped buckets of tar onto the main patient care area.⁶ Repairs cost in excess of \$27,000.⁷

Currently, in Pennsylvania and elsewhere throughout the nation the most common harassment tactic of opponents of abortion is the clinic blockade. Large groups of demonstrators physically block the doors of abortion clinics. Women seeking abortion and other services are prevented from entering the clinic, taunted, and followed. Staff are trapped inside or outside the facilities, verbally abused, and sometimes physically assaulted. Large blockades began in this state in July of 1988 when almost 900 people were arrested in three "days of rescue" in Philadelphia. They continue to occur here and elsewhere throughout the nation. Most recently, clinic blockades in

4 Clara Bell DuVall Education Fund, Fact Sheet: Harassment and Violence Against Pennsylvania Abortion Providers

5 Id.

6 Planned Parenthood v. Casey, No.88-3228, Slip. op. at 115 (E.D.Pa. Aug. 24, 1990).

7 Id.

Wichita and Buffalo resulted in thousands of arrests in those cities. Between 1991 and 1992, 24 blockades, resulting in 829 arrests, took place in Philadelphia.

Clinic blockades and other forms of anti-choice harassment are not simple, harmless expressions of opinion. To the contrary, this is criminal activity which seriously threatens women's health. For example, a woman seeking a first trimester abortion who is prevented from entering a clinic may be forced to delay her abortion and to undergo a second trimester abortion which poses increased health risks.⁸ Other women may be blocked from receiving treatment in the middle of multi-day procedures, or may be denied medically necessary reproductive health care unrelated to abortion.

As a result of harassment and violence, abortion providers experience higher security, insurance and legal costs, are threatened with loss of leases and face staff morale problems and turnover.⁹ The cost to the targeted community is also very high. In Wichita, clinic blockades produced more than 2,600 arrests at a cost of \$650,000 in police and court costs.¹⁰ In Philadelphia, the city spends an estimated \$10,000 to \$25,000 per blockade in police and court costs.¹¹

⁸ New York State National Organization for Women v. Terry, 886 F.2d 1339, 1348 (2d Cir. 1989).

⁹ Clara Bell DuVall Education Fund, Fact Sheet: Access to Abortion.

¹⁰ Mimi Hall, "Abortion Foes Target Five Cities", USA Today, September 3, 1991, at 4A.

¹¹ Planned Parenthood Southeastern Pennsylvania, Harassment and Violence at Health Care Facilities Fact Sheet (May 1992).

Blockades and other anti-choice harassment also pose a serious threat to the continued availability of safe legal abortion. Nationwide, as a result of constant harassment, many physicians have given up performing abortions. In 83 percent of the counties in the United States, there are presently no abortion providers.¹² In Pennsylvania, of 67 counties, 42 had no abortion provider and an additional 12 counties provided only 7 or fewer abortions during 1990.¹³ Continued anti-choice violence will no doubt exacerbate the crisis of the dearth of abortion providers available to perform abortions safely.

In spite of the high costs of anti-choice harassment and violence, and its plain illegality under existing criminal laws, the sad reality is that some municipalities in this Commonwealth have failed to enforce the existing criminal laws zealously and effectively against anti-choice lawbreakers. In Philadelphia, for example, police policies have repeatedly enabled blockaders to keep clinics closed for several hours at a time while arrests are made. Police have failed to maintain access to clinics during the slow arrest process. The District Attorney's office has failed to charge offenders with the highest criminal offense possible and have failed to apprise sentencing judges of a defendant's repeat offender status, which would trigger stiffer penalties. On several occasions, municipal court judges in Philadelphia have allowed their personal views about abortion to

12 National Abortion Federation, Who Will Provide Abortions? at 4 (1991).

13 Pennsylvania Department of Health, 1990 Induced Abortion Statistics.

influence sentencing decisions. One judge, for example, likened anti-choice protesters who were convicted of criminal trespass to "protestors at the Boston Tea Party" and imposed no fine or jail and only a \$25 court cost.¹⁴ In over 1000 prosecutions of anti-choice protestors which occurred in Philadelphia from 1988-1990, the maximum fine imposed was \$25, and no defendant received a jail sentence.¹⁵

As a result of Philadelphia's lenient enforcement efforts, clinic blockaders are increasingly choosing Philadelphia as the site for their activities, and are openly telling their members not to fear any punishment for arrests. More zealous enforcement efforts in Philadelphia and other cities throughout the Commonwealth would decrease the level of violence and harassment. I believe that House Bill 1658 will cause municipalities such as Philadelphia to improve law enforcement efforts. In the event that local law enforcement efforts fail, the Act provides an additional avenue for enforcement by giving the Attorney General's office concurrent investigatory and prosecutorial jurisdiction with the local district attorney. Finally, this legislation will also provide the citizens of the Commonwealth with valuable information about the actions taken by their community to prevent and combat anti-abortion violence and harassment.

Thank you for the opportunity to participate in this hearing.

¹⁴ Joseph Grace, "Pro-Lifers Getting Sympathetic Hearings," Philadelphia Daily News, at 4, July 14, 1989.

¹⁵ Clara Bell DuVall Education Fund, Fact Sheet, supra.